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# CHICAGO LAW



The University of Chicago Law School Record

Spring 2013





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### Spring 2013

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# Message from the Dean

Dear friends –

Chicago Law has always been a special and unusual place, and in no arena is that clearer than the one that is the focus of this issue: teaching. Legal academics have long had the reputation of being scholars first and teachers second (if at all), but that has never been the case here. Time after time, when I talk with alumni, they tell me wonderful stories about the professors who influence them to this day, about Socratic debates and class comebacks, gales of laughter and flashes of brilliance.

These stories are also often about how the experience of teaching at Chicago is one that goes far beyond what happens inside the classroom. Alumni tell me how so many of their professors took the time to talk at length with them in offices or in the Green Lounge, about how they took an interest in their careers and avocations, and about how years or even decades later these professors were still treasured advisors on legal matters big and small. The intimate size of the Chicago Law community



makes all these things possible—our very architecture ensures that the small number of people in our building every day cannot help but interact and become partners in the learning that is at our very core.

Lest you think this is all happenstance, I feel the need to remind you of what you already know—that the quality of our teaching is by design. Prospective faculty must be extraordinary scholars, to be sure. But at every level of hiring, the faculty demands that those joining our ranks be extraordinary teachers as well. We test them at workshops, study them during full quarters teaching our students, and scrutinize their teaching evaluations from other institutions. We nurture new faculty members by having senior faculty observe them, by sending them to the University's Center for Teaching and Learning, and by taking very seriously what students say on their evaluation forms. And because we have this reputation in the legal academy for valuing teaching, we tend to attract like-minded scholars to our school.

So it was important to me to spend some time celebrating this specialty of ours with an entire issue of the *Record* devoted to teaching. In these pages you will explore the past by reading alumni remembrances of favorite teachers and a history of the course that unites nearly every living alumnus—Elements of the Law. You will also read some self-examination about *how* we teach—the pedagogical basis behind our clinical programs, the importance of our Lecturers in Law to the curriculum, the use of new technologies in the classroom, and the process of teaching students to become academics themselves. Martha Nussbaum provides her take on the current debate on the third year of law school, and Geoffrey Stone talks about his highly unusual and brilliantly structured course in Constitutional Decisionmaking. In perhaps my favorite article, you'll find out how several of our faculty members who are alumni of the Law School feel about seeing the experience here from both sides.

If what you read in these pages makes you nostalgic about your time here and excited by how vibrant legal education is at the Law School (and it should), come and visit us. We would love to have you sit in on a class or two and meet the faculty who joined us after your graduated, or see an old favorite in action. I am in awe of my colleagues' teaching every day, and hope that you will come see for yourself.

Warm regards,

A handwritten signature in black ink that reads "Michael H. Schill". The signature is written in a cursive, flowing style.

Michael H. Schill





# ALUMNI ON THE FACULTY: THE VIEW FROM BOTH SIDES OF THE PODIUM

FROM ITS EARLIEST DAYS, THE LAW SCHOOL HAS INSPIRED ITS STUDENTS NOT ONLY TO BECOME PROFESSORS BUT TO JOIN THE FACULTY AT THEIR LEGAL ALMA MATER. ONCE THEY EXPERIENCED THE HEADY INTELLECTUAL ATMOSPHERE OF THE LAW SCHOOL, MANY OF THEM FOUND IT HARD TO IMAGINE WORKING ANYWHERE ELSE. THE MODERN ERA IS NO EXCEPTION, SO RECORD EDITOR MARSHA FERZIGER NAGORSKY (HERSELF AN ALUMNA OF THE LAW SCHOOL) SAT DOWN WITH FIVE CURRENT FACULTY MEMBERS WHO GOT THEIR LEGAL EDUCATIONS (AND, IN SOME CASES, OTHER DEGREES AS WELL) FROM THE UNIVERSITY OF CHICAGO TO FIND OUT WHAT IT IS LIKE TO STAND ON ONE SIDE OF THE TEACHING DESK WHEN YOU ONCE SAT ON THE OTHER SIDE IN THE VERY SAME ROOMS. JOINING HER FOR THE CONVERSATION WERE DAN FISCHEL, '77, TODD HENDERSON, '98, WILLIAM HUBBARD, '00, ED MORRISON, '00, AND RANDY PICKER, '85 (EACH PICTURED IN THEIR iL GLASS MENAGERIE PHOTOS AND THEIR CURRENT FACULTY HEAD SHOTS).

**NAGORSKY:** Let's start from the very beginning. Why did you choose to attend the University of Chicago Law School?

**MORRISON:** In the early 1990s I was working in an economic research group and getting to the end of my undergraduate studies. My boss came by and said, "So, Ed, what are you going to do next?" I responded, "I don't know. I really like studying economics, but law school seems very interesting too. My dad's a lawyer. I kind of assumed I would become one too, but I'm tempted to pursue economics instead." I shrugged, "I don't know how you pick between the two." He said, "hold on," went back to his office, and brought back a copy of the *Journal of Law and Economics*. I remember looking at it and thinking, "Wow, I've never seen this." I was particularly struck by the fact that the journal was published at the University of Chicago and featured the work of Becker, Stigler, and a lot of other Chicago people.

**FISCHEL:** Where were you at this point?

**MORRISON:** At the University of Utah, which had an Economics Department with a high concentration of Marxist economists.

**FISCHEL:** Oh, God, that's so funny.

**MORRISON:** One of my advisors was actually a U of C graduate, but he was a macro scholar, so I really didn't really get much exposure to Chicago and law and economics. Seeing the *Journal of Law and Economics* was sort of a transformative event, because I started reading the journal and feeling that, wow, this seems like the place where I should go.

**PICKER:** I have three degrees from the University so I came here as an undergraduate and I got in early decision at both Chicago and MIT. We came here to visit and Chicago seemed like a great place. I didn't go to MIT, so I sometimes wonder how that would have turned out. I graduated early and so I had time to kill. I signed up for the LSAT but I didn't take it and I went to econ school and so I graduated from the college in two years so...

**HENDERSON:** That's so Picker.

**FISCHEL:** All the years I've known you, I didn't know that.

**PICKER:** So then I went to econ school and I did that for two years and then having had four years, it was time to do something else. I was ready to go to law school. I only applied to one law school, and it's not a strategy I recommend, but so this was easy for me and I wasn't ready to leave after two years, but after four years I'm still in the middle of the econ program and it's a great place.

**HENDERSON:** I was a dam engineer in California and I wanted to be a politician so I thought I had to go to law school. I went in to the Borders books in Pasadena and there was one book, *An Insider's Guide to Law Schools*—there was so much less information back then for prospective students—and I started reading from the front. I had never heard of the University of Chicago or been to Chicago. I didn't even know this university existed and the eight-sentence description, well, it had me at ... hello. It said this is a hard-core, serious, rigorous place, something like that and I was just sold. I went to my boss who was an engineer and I told him I was going to be a lawyer. He was not happy. Then I told him I was going to go here and he had grown up in Chicago and knew the reputation of the place and said, well, if you're going to go anywhere, that's where you should go. That always meant a lot to me.

**FISCHEL:** For me it was a complete fluke. Unlike all of you, I applied to a lot of schools because my credentials weren't that great and I wasn't really expecting to get into

Chicago, but Dick Badger, who was then Dean of Admissions, came to Brown where I was and interviewed and for whatever reason he let me in. I think I was the last person admitted in the class. I didn't know the first thing about the University of Chicago. All I knew is it was several tiers above any other school that I got into. I came in 1974, which was right after the Watergate hearings and Phil Kurland was in the news all the time. So I thought I was coming to study constitutional law with Phil Kurland, so my story is very random. I mean, it was the best thing that ever happened to me, it completely changed my life, but it was really a fluke.



Dan Fischel, '77



**HUBBARD:** Coming out of undergrad I was interested in law, I was interested in economics. I didn't apply to many law schools—I just took the *U.S. News* rankings, started at the top, and applied to four schools. I ended up visiting Harvard, Yale, and Chicago. When I told a friend of mine at USC that I had gotten into these three schools, he said, "Oh, congratulations! It's so exciting that you'll be going to Harvard!" I had to tell him that I hadn't made up my mind yet. What made me come to Chicago was visiting the schools. At each school, I made an effort to talk to random students. What I found at Chicago was the students all looked really tired! I got the sense that people worked harder at Chicago.

**PICKER:** That's funny. Certainly right.

**NAGORSKY:** Who were your favorite teachers?

**PICKER:** That's a tricky question ... especially since they're my colleagues.

**MORRISON:** One of my teachers is sitting right here.

**FISCHEL:** That's okay, nothing personal.



**NAGORSKY:** Let's put it this way: what lessons did you learn from them that you're still using in your teaching?

**HENDERSON:** Well, I think my favorite was Richard Epstein and one of the reasons is that I took three classes from him: Land Use Planning, Telecommunications, and Roman Law—and they were all the same class.



*Todd Henderson, '98*

**PICKER:** That's what I would have figured.

**HENDERSON:** It was just Richard on Richard and just the show of it, the flamboyance, the ability to construct full paragraphs without even catching a breath, and his facility with cases and connections with all different areas of law, it was just absolutely amazing to see that. So the lesson I took from that, although I could never be like that, is that being articulate and that the rhetoric in class is extremely important. So in class, I'm thinking about what I'm going to say, I'm doing it extemporaneously, but I'm very consciously thinking about everything that I'm saying because it had a tremendous impact on me to sit there and look at someone who I thought was very brilliant.

**PICKER:** I would think of influence more than favorite because I practiced law for three years doing bankruptcy and debt restructuring and I got there because I spent my second summer at Sidley & Austin in Chicago. I did a bunch of bankruptcy stuff that summer and the 1978 bankruptcy code was six years old at that point, so the statute was very fresh. I had taken two classes from Douglas [Baird] and one from Walter Blum in those areas, and that really shaped the area that I ended up going into for an extended period of time. I obviously have taught in those areas, written case books, done research in those areas, so that I think had the single greatest influence. Richard [Epstein], obviously, I think of Richard as an art form and

there's no question that Richard has a distinctively powerful tug ... but it didn't have quite the same substantive effect that the Baird and Blum stuff did.

**NAGORSKY:** Were you interested in those areas before you took the classes?

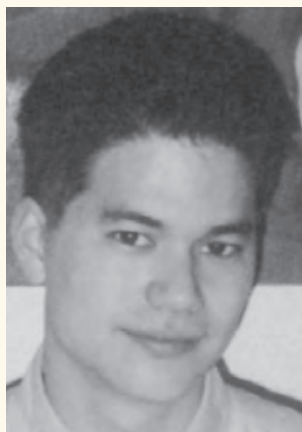
**PICKER:** Oh, I didn't know anything about them. I was coming out of econ. The natural thing for an econ person to do is to go into something like maybe antitrust. Now, that was a big of a judgment call in the sense that I thought at that point in the midst of the Reagan administration that antitrust wasn't the thing to do. That was really just a judgment call, and I had Diane [Wood], Bill [Landes], and Frank [Easterbook] for antitrust. That was a good experience, so I think back to that now as someone who has taught antitrust for some time.

**MORRISON:** Douglas Baird had a big influence on my scholarly path and teaching. I was impressed by the way he devotes himself to students and the amount of preparation he puts into every class. As a young professor, I frequently called him for advice on how to teach. I would sometimes run into other professors who, after teaching a subject for a bunch of years, would spend only 10 minutes or so preparing for a class. But Douglas was different. Even after years—decades—teaching a subject, he was still spending hours to prepare for each class, and you could tell. What I'm saying is that he had influence not just on scholarly writing but also on my approach to teaching. He treated every class, no matter how many times he taught it, as a maiden voyage. I remember a time when I was preparing myself for my first presentation at a major academic conference. Douglas was coaching me, helping me prepare. He told me to think about an actor playing Hamlet on stage. That actor has rehearsed those lines countless times, and yet when you hear him on stage, he imbues the lines with such life that you would think he's speaking them for the first time. Douglas said that's the way I've got to be presenting papers and class lectures.

**HUBBARD:** It's hard to answer because I was one of those students in law school who worshipped all his professors. I just loved law school, and I guess that's why I came back. In terms of most influential on my teaching style, I can't say yet because I'm only in my second year teaching. I'm still developing how I present the material to students and probably will be for a long time. But one thing that I did learn from seeing professors in action as a student was how there are so many different ways to be effective as a



teacher. I often bring up the juxtaposition between Dick Helmholtz and David Strauss as the two poles of the spectrum in terms of style. What's amazing is that they're both incredibly effective, they're both beloved by students, and yet their delivery could not be more different. That gives me some reassurance that I can find a place along that spectrum where my own style fits.



*William Hubbard, '00*



**MORRISON:** The Todd test is how many times you took a course from a person. I think I took three courses with David Currie: Civ Pro, Con Law IV, and Federal Jurisdiction. These are pretty far afield of what I care about, but I took them because he was the teacher. In Civ Pro, I did not do well, but it was still a magical experience with Currie. It was magical in the sense that he expected a level preparation from students that very few professors demanded of me in the classroom. I did not feel burdened or annoyed by the Socratic method as practiced by Currie, even as a 3L. It was inspiring. It was really heavy lifting, but it was really mind expanding. Every course was like that, and that's what I dream of bringing to my classes.

**FISCHEL:** On the one hand I would just say everyone. I also just loved law school. I went to two Ivy League schools before I came to Chicago and I sort of just passed through them. They didn't really leave much of an impression on me and when I got here I just loved law school. I loved every minute of it and, in fact, I remember my two first-quarter grades from Elements and Civil Procedure, I got 75 in one and a 76 in the other, which was exactly the median in both classes. To this day that's one of my proudest intellectual accomplishments because I thought these professors were so great and the students were so smart that I was thrilled just to be able just to hold my own.

**PICKER:** Who did you have for Elements?

**FISCHEL:** For Elements I had Phil Neal. For Civil Procedure I had Stan Katz. There are all kinds of different styles and just to me they were all great. I thought almost from the beginning of law school that the highest professional aspiration I could possibly have was to be like them, to be a member of the faculty. Somebody who was one of the most unpopular teachers at the time, Ed Kitch, had a tremendous influence on me because he was so creative and so smart and he took a real interest in me and I probably took as many courses from him as from anyone. Epstein ... I was just completely dazzled by him and what he taught me, which is something that really was unique at Chicago, is the interdisciplinary approach to law, much less unique now because of the schools that have modeled themselves after Chicago. To do law really well as a scholar, as a teacher, even as a practicing lawyer, you couldn't just view law as a completely self-contained field. As I always tell my students now, questions for which there are clear answers are not issues where people can make great careers by knowing, because anybody can look them up. So the issue is being able to conceptualize and think creatively about problems where there are no obvious answers. That's what a University of Chicago education taught me, and that is why even though I went to great schools my whole life, all of them pale in comparison to the role that the University of Chicago had on my intellectual development and, I suspect, that of generations of people before me and after me.

**NAGORSKY:** How did you end up a law professor and how did you end up a law professor here? Was it always the goal?

**FISCHEL:** That's an interesting question too.

**HENDERSON:** I agree with Dan, I coasted through college and it made no impression on me. I came here and it was transformative. It was the single biggest inflection point in my entire life. I had no interest in being a professor. If you'd asked me when I was a student what the chances I was going to be a professor were: zero, less than zero ... but once I was practicing as a lawyer and as a consultant, although those had their virtues, I was pretty miserable. I was here for my fifth law school reunion and I was sitting at a Cubs game, my wife was sitting next to Saul Levmore who was then the dean, but who was not here when I was here. Saul said to my wife, "What is Todd doing now?" and she said, "He's a management consultant, but he's not as happy as he was when he was a law student. His time in

law school was the happiest time in his life.” And at that reunion weekend I sat in a presentation by Randy Picker and a new professor named Lior Strahilevitz about something related to internet privacy and ... it was like Proust’s madeleines, I was just transformed.

**PICKER:** (sarcastically) That’s how I think of it, too.

**HENDERSON:** All of a sudden I was back in this magical time. I went home to Boston and two weeks later the telephone rang in my office and it was Saul Levmore and he said, you should come here and teach a class and I did and then that led to a year-long thing and then I went on the job market and won the lottery.

**FISCHEL:** My story is again somewhat odd. By the time I graduated I had a really strong record. I published two comments and an article while I was a student. And had a Supreme Court clerkship.

**HENDERSON:** Weren’t you earlier making fun of Picker for graduating from the college in two years?

**FISCHEL:** I was lucky to graduate in four! I also wanted to practice because I was interested in business law. I thought it was important to have some practical experience and I wanted to be in Chicago. Then an opening came up in business law at Northwestern, but, of course, my loyalties were at Chicago. I thought my record was really, really strong so I thought I would leave practice earlier than I thought and Chicago would be interested in me, but, of course, they weren’t. So I took the job at Northwestern and had a strong couple of years in terms of publications.

**PICKER:** Were you and Frank writing together at that point?

**FISCHEL:** Yes. Then, as now, it was very hard to recruit people who are interested in business law. At that time law and economics was much more unique than it is now for people interested in business law, so basically I had visiting offers from everywhere. I got tenure at Northwestern in my second year.

**PICKER:** Wow!

**FISCHEL:** And the only school I was really interested in was Chicago. So I came as a visitor, I taught Corporations, and the class was so unbelievably unsuccessful—there were practically student riots—I think I had the lowest teacher ratings in the history of the school. So I was told that I wasn’t going to get an offer for the second time, but I still had

the rest of the year at Chicago. The second half of the year, my classes were much more successful, so I was somewhat rescued by reputation as a teacher because teaching was considered so important in the appointments process.

**NAGORSKY:** What went wrong in the Corporations class?

**FISCHEL:** Early in my career I was a proselytizer. I used the hard sell in classes and I remember I once got a teacher evaluation that just said for what you want to accomplish in your classes, the soft sell is much more effective. That teacher evaluation has always stuck in my mind because early in my career I was always perceived as rigid, dogmatic, uninterested in what students had to say, intolerant of dissenting opinions. When you try and cram things down people’s throats even if students agree with you they push back. That’s what happened to me and the lesson I learned over time.

**HENDERSON:** The soft sell worked on me in 1996, so here’s living proof.



*Ed Morrison, '00*



**MORRISON:** Like Todd, I never thought of myself as an academic. I got a lot of consumption value out of going to law school and getting my PhD. There was a turning point when I was a teaching assistant for Gary Becker. He would regularly ask how I was doing in law school, what was I thinking about, who was I talking to. At some point, I thought about focusing my research on labor economics questions that had little or no connection to law. Gary thought this would be a mistake. He said something along the lines of, “You have training in law and economics. That’s a really valuable combination. To focus on purely economics questions—with no relation to the law—would be a waste of potential.” He steered me back to law and

economics. Later, there came a point in his office where he said, “Ed, you should think about academia.” That was the validation I needed. At that point I think I started enjoying school more. I recall the final year of law school being one of the happiest years of my training here because I had a pretty clear sense of where I wanted this legal training to take me. A few years later, when I started interviewing for academic jobs, I talked to Eric Posner about coming back, but I felt that it might be healthy for me to have a bit of distance from Chicago. Gary Becker spent time away and he always said that was a healthy experience for him. Douglas, my other mentor, was very supportive of taking time away from Chicago to explore research and teaching on my own. But Chicago always felt like home. Coming back is one of those rare moments where my expectations have been exceeded along nearly every dimension—scholarly life, teaching, personal life, everything.

**HUBBARD:** Unlike some of the other folks here, I guess I always had aspirations of teaching, but I did feel this big gap between myself as a student and these wonderful professors. But working for several years in private practice really helped crystalize in my mind what kinds of questions I thought were worth examining and what I needed to learn in order to be able to contribute to answering those questions. I came back to the University of Chicago to get my PhD in economics—actually, Ed was the TA in my price theory class. He reminded me the other day.

**MORRISON:** You’d forgotten, which hurt my feelings.

**HUBBARD:** I was very embarrassed.

**MORRISON:** I thought I had tortured you in a way that you would always remember and sure enough, no.

**HUBBARD:** The scars healed! It was a wonderful experience and I like to say I came to the University of Chicago for law school and just kept coming back. As I finished up my dissertation I got a fellowship here thanks in large part to Gary Becker, and then I got an offer to teach here, so everything just worked out very well.

**PICKER:** It certainly would never have occurred to me that I was going to be a professor, never in a million years. I grew up in a very middle class background and I was vaguely aware of two kinds of professionals—doctors and lawyers. I knew I wasn’t going to be a doctor so I was going to law school. It never occurred to me that I would

be a law professor when I was in law school. The notion of the separation, the sense that these were sort of Olympians and I was just a guy, so that never would have occurred to me. I clerked for Dick Posner and Dick’s influential that way. I think schools looked at Dick’s clerks, but I wanted to practice law. How could you not go practice law? That was the whole point of going to law school. I was at Sidley doing debt restructuring and I had a great time, but eventually I saw an ad in the *National Law Journal*. The University of Chicago was looking for law professors. So I called up Douglas and had a conversation with him, came down and had lunch at the Quad Club and I applied to teach at one law school. And here I am. Mind-boggling still.

**NAGORSKY:** So think back—you walk in those doors the first day, not as a student, but now you work here. What does that feel like?



Randy Picker, '85



**PICKER:** After I got hired I actually just came down and walked around the campus and I felt like electricity was going through my body. The whole idea that they were going to let me be a professor here was just completely mind-blowing. Just a palpable sense of ... wow, really! Super exciting. I still feel that way, so ...

**FISCHEL:** Yeah, that did it for me. Those words perfectly capture my feeling.

**HENDERSON:** I was suffering from the imposter syndrome so I just felt like ...

**PICKER:** (laughs) Me, too!

**FISCHEL:** Yeah, like someone was gonna figure it out.

**HENDERSON:** I was a lawyer for three years; I was a



management consultant for four years. I'd not been in a law school class in 10 years and I'd just kind of forgotten so I went and sat in on a class that Richard Epstein was teaching. It was a Torts class and I sat in the back and I was just scared to death because I had no idea what he was talking about. I was petrified so I went up to my office and panicked that I wasn't up to it. I have to say that I've been here a little while and I still felt the same way this morning; I went to teach Torts for the first class of the new quarter and I couldn't sleep last night. I feel that way when I give presentations here, too. I don't feel that way when I go and give papers at other schools. Here I'm a completely different person and I'm totally petrified, but I think it's a good thing.

**NAGORSKY:** Is that because they were your professors?

**HENDERSON:** No, because there aren't that many around anymore. Interestingly, the ones that were my professors are the ones that I'm the least likely to feel that way about and they are some of my closest friends on the faculty so it's not that. I just think the standard here is so much higher than anywhere else. The level of engagement is so much higher with both the students and faculty that it just is a completely different atmosphere.

**MORRISON:** I am coming back to Chicago after spending 10 years at Columbia and after visiting Chicago for a quarter back in Spring 2008. Even so, a lot of questions entered my mind as I returned here permanently. Will I be able to rise to the level of excellence that I observed as a student? Can I inspire students as I was inspired when I studied here? Can I challenge people and make them want to rise to the challenge, not rebel? Will I be as interesting as my professors? Will I be as supportive and accessible? William Landes was a huge mentor my first year. He didn't even know me. I hadn't even taken a course from him. Just the fact that I was interested in law and economics was enough reason for him to talk to me. He's the reason I got into the PhD program here. A few years later, a PhD student asked me a question about contract law. I didn't know the answer, so I went to Douglas Baird. I had never had him for a course, but I knew that he was around and often available. I thought I'd just knock on his door and maybe get a quick answer. Douglas gave me the quick answer and then said, "Let me ask you a question. Here's a problem I'm thinking about. It involves bankruptcy law." He described this problem and I said, "I think I could

write an economic model that analyzes this problem." He said, "Why don't you write that down and come back?" I had never taken a bankruptcy course, never taken a course from him, but he still thought it would be interesting to have a deep conversation. That was the beginning of my scholarly career in bankruptcy. And that was, for me, the classic Chicago experience: I could just stop by a professor's office—even a professor who didn't know me, never taught me, never seen me prove myself—and still be taken seriously.

**HUBBARD:** When I first returned to the Law School, I was apprehensive about whether I would be able to interact with his faculty as colleagues rather than as ... overlords. [Laughs.] But that emotion was very quickly replaced by one of relief. Once I started actually interacting with everybody I discovered that we're all just here trying to learn about the law and there wasn't the sense of hierarchy that I had perceived as a student.

**NAGORSKY:** What was the first class you taught here?

**PICKER:** I taught Civ Pro I, and I'd had David Currie for Civ Pro. I taught Civ Pro I, so they were fresh and I was fresh. My oldest son at that point was all of two weeks old so it was an adventure.

**NAGORSKY:** What was it like to be on the other side of the same room?

**PICKER:** Civ Pro I has the great virtue of being a nice, internally defined set of materials, and the rules are pretty simple as statutes go. But the other thing is you feel like you're given the chance to introduce them to how to read that kind of well-defined text. They don't do that much statutory reading in first year and that's such an important part of what it means to be a law student, law professor, and lawyer. It's also an intensely practical course so there was a lot I liked about that course. First-year students—teaching them fall quarter, it's like watching time lapse photography. They learn so much so rapidly. That's always very exciting. I'm not academically that interested in Civ Pro, but I understood the virtues of that class and I was hoping to be worthy of David Currie, since I've had him for Civ Pro and I'm sure I was never worthy of him then.

**HUBBARD:** I taught Advanced Civil Procedure, and that was a lot of fun. I got to make up the syllabus because it hadn't been offered before. It was a lot of work selecting readings and edited cases, but it was a great experience, and I

was really impressed by the students. I'd always—ever since I was a student in law school, I dreamed about teaching a class at Chicago and yes, it lived up to my expectations.

**HENDERSON:** Corporations. I still remember, I held up Dan and Frank [Easterbrook]'s book and I said I had the great fortune of having this guy as my Corporations teacher and you guys are stuck with me, but if I fail, just read this and you'll have gotten everything you need to know. In retrospect I know how terrible I was and how much I've learned and gotten better. I still interact with a lot of the students I had in that first class and they said I didn't do quite as badly as I thought I did, but I had big shoes to fall.

**NAGORSKY:** How do you think your students differ from your classmates?

**PICKER:** There's so much more other stuff that goes on at the law school now than there used to be. I don't think I got any free lunches and I was self-supporting in law school so I could have used a few free lunches. Now, I don't know how the students do it. They've got so many more activities going on simultaneously than we had back then.

**FISCHEL:** There was no such thing as teacher ratings. It's much more consumer friendly now. There are trade-offs to that.

**HENDERSON:** It seems like there's less controversy today. I remember as a student being involved in all kinds of big, huge fights between political parts of the student body and in class I remember on many occasions intellectual fights breaking out. Maybe it's because the stuff I'm teaching is not amenable to that. The students are engaged with material, but it doesn't seem quite as political to me as when I was a student.

**HUBBARD:** The big difference I noticed has to do with business cycles. I was in law school from 1997 to 2000 and that was the great associate feeding frenzy of the tech bubble. Today, of course, is a very different employment market and a much more stressful time to be a law student.

**MORRISON:** One of my biggest fears is that the dismal job market may generate an unhealthy seriousness among students. I fear that, because students are stressed about jobs, they may not relish the learning experience the way that I did. I think that's part of our mission now: in a world of scarce jobs, to still make law school an experience that they find transformative, not ...

**HENDERSON:** Paralyzing ...

**PICKER:** Merely instrumental.

**MORRISON:** Yes, merely instrumental.

**NAGORSKY:** What do your classmates think about you teaching here?

**PICKER:** To the extent I've talked to anyone about it, I think it's a bit of a point of pride. I think they like having someone from the class at the Law School. I think that people think fondly of the Law School on the whole, so it's the chance for the class to, as it were, make an in-kind contribution to the Law School.

**FISCHEL:** My class probably produced more professors than any class in the history of the Law School. I think the people in the class, many of whom have gone on to equal distinction as judges or named partners in law firms, always regarded it as sort of a privilege to be in a class where there are a lot of their classmates who are academics and particularly academics at the Law School.

**NAGORSKY:** What is it that makes Chicago Law different?

**FISCHEL:** Having not just taught at another school, but seeing all the different statistics from different schools, there's nothing that's inherently better about Chicago students when they get here. I think what makes Chicago unique is the value added and the education.

**PICKER:** I think that emerges from the shared culture, right? The students work hard, the professors work hard, and I think we all do better.

**HENDERSON:** I look at the way I approach problems today and it is very much a way that was crafted by Dan Fischel and Randy Picker and Richard Epstein—there is a “Chicago way.” I'm sure they were tremendously influenced by Stigler and Director and Levi and the people who came before them ... To be a part of that chain, I feel an overwhelming sense of responsibility. When I go to my students I'm not only giving them my perspectives for what they're worth, but I am an instrument for delivering them this tradition that has been handed to me, a tradition of not only ideas, but of analytical and methodological approaches to solving problems. I very much feel like I'm carrying the water for these people. That is a very heavy burden. ■





# “I WILL FOREVER BE GRATEFUL” ALUMNI REMEMBER THEIR TEACHERS

**I**N THE ACADEMIC WORLD, THE LINE BETWEEN “PROFESSOR” AND “TEACHER” CAN BE AN UNCLEAR ONE. DISCUSSIONS OF PROFESSORIAL QUALITY CAN TAKE INTO ACCOUNT ANY NUMBER OF THINGS: SCHOLARLY WORK, FAME AND RENOWN, INFLUENCE ON POLICY, CITATION COUNTS . . . . BUT ASK ALUMNI TO TALK ABOUT THEIR PROFESSORS, AND WHAT THEY’LL TELL YOU IS SOMEWHAT DIFFERENT. THEY’LL TELL YOU ABOUT TEACHING. ABOUT MEMORIES OF HUMOR (AND SOMETIMES FEAR) IN THE CLASSROOM. ABOUT SHARING A

BEER WITH A PROFESSOR AT WINE MESS, OR VISITING A FACULTY MEMBER’S HOME. MOST OF ALL, THEY WILL TELL YOU HOW THE TIME SPENT WITH THAT PROFESSOR IS DEEPLY MEMORABLE YEARS, AND OFTEN DECADES, LATER.

AS PART OF THIS ISSUE’S CELEBRATION OF TEACHING, WE ASKED A FEW ALUMNI TO SHARE THOSE MEMORIES HERE. IF YOU WOULD LIKE TO SHARE YOUR OWN TO BE ADDED TO THE LAW SCHOOL’S WEBSITE AND ARCHIVES, PLEASE SEND THEM TO MARSHA FERZIGER NAGORSKY AT [M-FERZIGER@UCHICAGO.EDU](mailto:M-FERZIGER@UCHICAGO.EDU).



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# DAVID CURRIE

By PETER ALTABEF, '83

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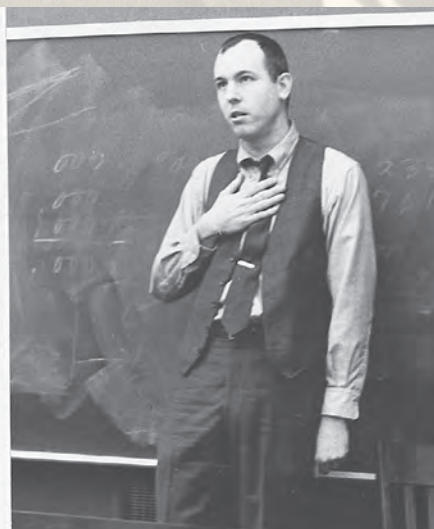
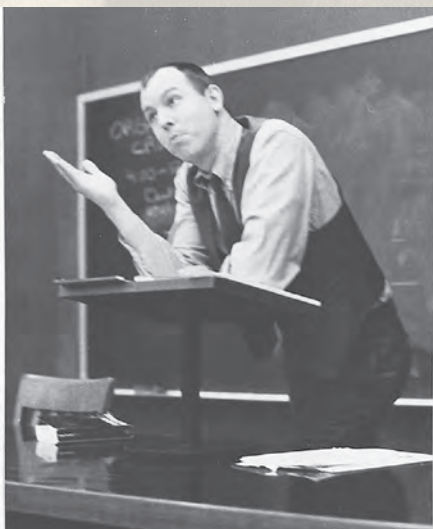
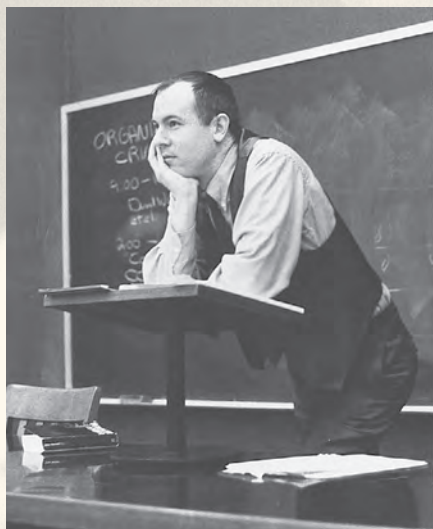
David P. Currie, Edward H. Levi Distinguished Service Professor of Law (1936–2007), was a legal scholar of the first order, who wrote nineteen books and hundreds of articles. He was also an accomplished actor, singer, and director and was a member of Chicago's Gilbert & Sullivan Opera Company for more than 40 years. During the time I attended the Law School (1980–83), Prof. Currie taught a series of constitutional law courses, which under his direction became educational theater.

He started with a notable entrance—before it was cool to do so, he rode a bicycle to school. He was gracious, articulate, and witty and would frequently have a twinkle in his eye—sometimes kindly, sometimes mischievous. In our constitutional law classes the Socratic method evolved into a form of mystery dinner theater, where the students were a participatory audience, the court case of the day became our plot, and the appropriate ending was never known in advance—because even though we were expected to have read the case before the start of class, the conceit was that Professor Currie would have us wondering earnestly by the end of class whether in fact the case had been correctly decided. He could do this even with what seemed, going into the class, to be a relatively straightforward decision. There was never any applause after class, but on several occasions I remember just sitting in my chair, thinking to

myself, “did I just witness this?” and wondering whether I would ever be able to bring to a situation even a little bit of Professor Currie’s analytical methods and insight.

A few years ago I began to collect Prof. Currie’s later writings on constitutional law, including a series of seven books written after I left the Law School; a primer, *The Constitution of the United States*, a two-volume set on *The Constitution in the Supreme Court*, and a four-volume set on *The Constitution in Congress*, a chronological series of both the executive and legislative branches’ views and actions relating to the Constitution. The *Congress* set ends in 1861, but Prof. Currie had not intended to finish it there. Declining health prevented the publication of a fifth volume, but the bulk of that work can be found in two extensive law review articles, one on the Confederate Congress (published in the *University of Virginia Law Review*) and the other on the Union Congress (published in the *University of Chicago Law Review*). Taken individually or together, the series is simply brilliant. To close the dramatic circle, shortly before he passed away Prof. Currie recorded a reading of the US Constitution as a gift to the Law School. It is available online.

I don’t think Prof. Currie ever knew anything about me, and barely knew of me, but most actors and directors don’t know individual audience members. Our conversations were rare, short, and limited to the text at hand. But I believe he cared deeply about imparting to my co-students and me a profound interest in the subject matter and in developing our critical thinking abilities beyond what we would have imagined to be our natural limits. For that, I will forever be grateful.





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# WALTER BLUM

By JACK JOSEPH, '52, AND JAMES JOSEPH, '94

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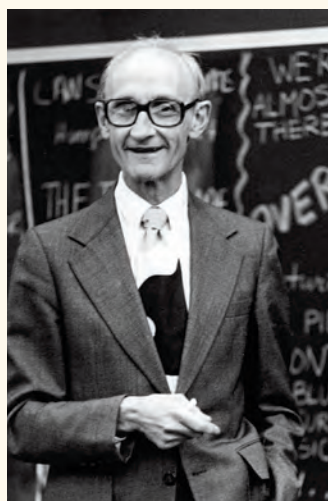
**Jack Joseph:** My memories of Walter Blum remain quite vivid, most likely because I came to feel that he was as close to an ideal law professor—and person—as one could come. The courses he taught—taxation and bankruptcy-and-reorganization—were in many respects the most technical and complex as any part of the curriculum; nevertheless, he always seemed to be in command not only of the myriad details but also of the philosophical rationale underlying the structure of the law. He was also exceptionally articulate, able to express in clear, plain language even the most erudite and complex notions accounting for the formulations in the governing statutes and the rationale of the governing case law. He was sympathetic towards his students, able to diagnose the reasons for difficulties they had in understanding the material, and adept at formulating the language with which to address those difficulties. He held students to high standards, applied objectively, which imparted a feeling of fairness; neither affection nor aversion for the personality of a student, for example, would interfere with awarding a given student the precise grade that the student deserved from an academic standpoint.

An occasion giving rise to a highly pleasant recollection was riding on the train with him from Chicago to Washington, DC, where I was headed in connection with litigation on behalf of Indian tribes that I was pursuing at the time, and he to consult with Treasury Department officials about taxation issues on which the officials sought his advice. (He was averse to airplanes.) He was characteristically cordial, good-humored, and informal, and at the same time he insightfully imparted wisdom in virtually everything he said, without ever giving the impression that he was being pompous, or displaying erudition or superiority, or talking down. My impression was that almost all students—even those who had little interest in the complex subject matters with which he dealt—were both fond of and respectful of him.

**James Joseph:** Though I attended the Law School more than forty years after my father (Jack Joseph, '52), we did have one professor in common: Walter Blum. (We might have had Bernie Meltzer too, but that omission was my fault for stupidly failing to take Professor Meltzer's class.) So to me Professor Blum was more than just a fine professor or even a revered icon of the institution; he was also a sort

of time machine, a window into both my personal history and that of the Law School. There was always a moment, maybe a few seconds, maybe scattered minutes, when—during some arcana of tax theory that Professor Blum would bounce around in, like a puppy in a field of fresh snow—I would be transported back in time to a black-and-white postwar world, where my then-kid of a father and his slick-haired classmates would eagerly absorb the friendly wisdom of an also-kid Professor Blum. (He was only in his early thirties then, well younger than I am now.) It was during moments like that when my appreciation for both Professor Blum and the Law School itself crystallized into deep and genuine affection.

Speaking of bounciness, that's the image I most associate



with Professor Blum. He didn't just walk up stairs; he took them two at a time. He didn't just chat with people at Wine Mess or other social events; he frolicked, and after just the right length of conversation, caromed like a human ping-pong ball over to the next group of people, so that after every gathering he had visited with everyone. Even his famous

ties were bouncy and lifted the spirits of grumps and bores before they had a chance to be boring or grumpy.

I'm glad he was a tax professor, both for my sake and for the image of tax professors everywhere. Taxation is a heavy subject and it benefited from his lightness. I should think that after teaching the same subject for fifty or sixty years, one's enthusiasm for the day's lesson might need a little inflation, and one's patience with the ignorance of novices might be a little thin. But this could never be said about Professor Blum, whose bubbly fondness for both his students and the academic study of his life kept him forever young and his field of study forever fresh. Sitting in his classroom, I thought he seemed as clear and energetic in his teaching as I imagined him to be when he began teaching so many decades before, and he elevated an otherwise intimidating subject into something that almost might be thought of as—dare I say it?—fun.

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# SOIA MENTSCHIKOFF

BY JIM REYNOLDS, '68

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During the mid-1960s, the Law School faculty was unmatched anywhere in the Western world. Among that group, Soia Mentschikoff etched the most indelible impressions. She was a person of considerable stature—physically, scholastically, and experientially. When Soia entered a room, everyone knew immediately of her presence. When she spoke, I wanted to hear everything she had to



say. She taught secured transactions with the authority of one who had written the UCC section. She could be stern, to be sure, but her smile exposed the big-hearted woman that she in fact was.

Soia taught Elements during those years after her husband passed away. I felt so privileged to be instructed by the longtime

wife and associate of the man who wrote *The Bramble Bush*. If Karl Llewellyn was now gone from us, aren't we lucky to have Soia with us? I thought. What a gift! Right off the bat, first class as an entering student, we are introduced to this giant of a person who is going to insist that we take this calling seriously.

She impressed upon us that we were about to become trustees of our society and that we would graduate not just with opportunity but with obligations that would stay with us a lifetime.

Soia met with the spouses of students, warning them of their lives ahead married to a law student and later a practicing attorney. The law, she said, was a very jealous mistress. She wanted her students to be free to be the best.

Soia Mentschikoff, more than any other faculty member, instilled in me the ability to speak and advocate with the confidence of one fully knowledgeable and grounded in my craft. That gift has carried me safely through the briar patch of life's many challenges in the law, business, community, and politics. Thank you, ma'am.



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# SAUL LEVMORE

BY SARA FEINSTEIN, '08

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The University of Chicago Law School is not for everyone. As Professor Levmore tells prospective students during admitted students' weekend, our law school appeals only to a select group of people. It can be a tough, challenging place that might, on some days, push you almost to your breaking point (or, maybe past it). But if you are one of those special people who is able to truly appreciate the value of the law school—if you are someone who can love its quirks and drink the proverbial Kool-Aid so deeply that it dribbles down your chin—then perhaps this is the place for you.

And, much like the Law School itself, Professor Levmore appeals only to a select group of people. One of Professor Levmore's most endearing traits is that he has no desire to be universally beloved; in fact, he would *hate* that. He enjoys few things more than pinning students down into an intellectual corner, forcing them to rethink and twist and wiggle their way out. He loves asking the difficult questions, the more personally challenging the better. At the same time, I have not met many people who have a bigger heart or who are more invested in their students. He pushes because he cares, though it may take some people years of study, reflection, and/or therapy to figure that out.

I was fortunate to be able to take a class with Professor Levmore (with the most inventive final I can remember), but it was by sheer luck, and perhaps courtesy of a few moments of snark-fueled banter in the Green Lounge, that



I had an opportunity to work as his research assistant. Though the focus of my employment was to research tort cases and perform the occasional Maroon-booking, the truly lasting lessons I took away from my time with Professor Levmore came from our conversations. Every day, we would discuss a range of topics,

and I found myself often having to reevaluate a previously held opinion or stance. He seemed to relish the challenge of turning my arguments on their heads; I had a blast.

Professor Levmore's wit, wisdom, compassion, energy, and especially his smirk, are legendary. However, it's his way of constantly questioning that makes him unforgettable. As I wrote this piece, I wondered if there would come a point when I would feel comfortable referring to him as Saul, as he has asked me to do on a number of occasions. Then I realized why I can't bring myself to do it: I cannot imagine a time when I will not learn from, or be challenged by, Professor Levmore. I hope I am lucky enough to be his student for many years to come.



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# DAVID STRAUSS

BY RANJIT HAKIM, '05

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The start of law school can be nerve racking and uncomfortable for all sorts of reasons, not the least of which is an introduction to the Socratic method. Few can honestly claim that they relished the opportunity in those first uncertain weeks to fumble their way towards the fundamental truths of the law under the steady inquisition of the country's brightest legal minds. The presence of ninety-plus recent strangers transcribing what little they could glean of the dialectic between pregnant pauses and halting half sentences only added to the misery.

This may explain why Professor David Strauss quickly became a favorite of the Class of 2005. Sure there was the Office of Legal Counsel pedigree, the editorship of the prestigious *Supreme Court Review*, and even (let's admit) the uncanny good looks of a man of a certain age. Yet as the instructor for Elements of the Law during fall quarter of our 1L year, Strauss could also credit his forgiving brand of the Socratic for his widespread acclaim. Make no mistake, Strauss certainly put his young charges through their paces like any other professor. But when we signaled how far out of our depths we were with a particularly useless answer, Strauss would rescue us from our deserved public humiliation by thanking us for the rambling, readdressing the class, and moving on with, "So what I think [insert: name of grateful student] is trying to say is [insert: correct answer that resembles our hopelessly muddled response by no more than an overlapping word or two]."

That phrase, repeated so frequently with little variation during those early days, was a gracious reprieve, a tacit acknowledgement of our ignorance and its simultaneous forgiveness. It was also exactly what some of us needed to stop being so nervous. A gentle course correction when we had lost our way. And as the year progressed, in Elements of the Law and elsewhere across the 1L curriculum, we all settled in, started thinking like lawyers, and stopped needing to hear Strauss' reassuring absolution quite so often.

We would not have another class with Strauss until the spring when he taught Civil Procedure II. That same term, Justice Scalia came to judge the moot court competition. Perhaps acquainted with our professor over the course of a string of Supreme Court arguments or simply nostalgic for

his own days as a distinguished member of the faculty, the Justice wandered into Strauss' classroom, ascertained the topic (personal jurisdiction, if I recall, though I'll confess to being unreliable on this point) and quickly took over.

While we were sharper than we had been at the very beginning of law school, as a collective, we were not yet members of the Supreme Court Bar. The Justice seemed genuinely disappointed in us. And the more questions he asked, the fewer answers we could muster. The old nervousness crept back in; eight months into law school and we still didn't get it. In those first weeks with only our peers as witnesses to our Socratic missteps, we suspected our hopelessness but there seemed a possibility that we could grow out of it. Now no less eminent a source than the high court (where some of us hoped to practice one day) was writing us off. The Justice's hard Socratic dissolved into a jeremiad of the ways in which we were failing to uphold the proud traditions of the school. Strauss did not interrupt our esteemed guest as he gave voice to all of the insecurities that we had felt at one time or another during the year.

But when the Justice had finished and we were duly chastised, Strauss thanked him, readdressed us, and began, "So what I think Justice Scalia is trying to say is . . ."



I don't know if Professor Strauss intended that as a joke or a transition, but whatever was meant to come next was drowned out by laughter. The Justice left. And when I saw him again seven years later as a litigant at the U.S. Supreme Court, I had long since forgotten the particulars of *International Shoe*, but I had Professor Strauss to thank for being just a little less nervous.



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# RICHARD POSNER

BY PAUL SANDBERG, '82

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I was fortunate enough while a student at the Law School to have had (then Mr.) Posner for a number of courses.

The first was Torts, during which he eventually introduced the class to the concept of “due care.” One morning upon entering the classroom he found each student wearing a big grin and a custom-made t-shirt emblazoned with



Learned Hand’s “B<PL” formula. Somewhat taken aback, he seemed nevertheless pleased.

And pleased all the more when we then presented him with a t-shirt of his own. Which he donned immediately, and wore during the remainder of that day’s session.

The guy has a sense of humor.

Cut to 30 years later: rummaging through some little-used drawers, I come across my old B<PL shirt. So I mail it to (by then Judge) Posner ... and am happy to say receive back from him in short order a very nice personal note.

The guy has manners, too.

I hope, for him, the shirt brought back fond memories of his teaching days at the Law School. It sure did for me.





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# DOUGLAS BAIRD

BY STANLEY PIERRE-LOUIS, '95

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My first day at The Law School, I came upon a message board containing a variety of announcements. Mind you, this was 1992 when message boards were physical installations, not social media tools. The message board listed, among other things, class section members, class times, and a variety of Law School activities. It also contained a curious



entry for “faculty advisor.” Mine was Professor Douglas Baird. Again, this was 1992 and Google had not yet been created, so I could easily gather little about him beyond what appeared in *The Glass Menagerie*.

I decided to pay Professor Baird a visit in his office that day. He could not have been friendlier and genuinely seemed eager to

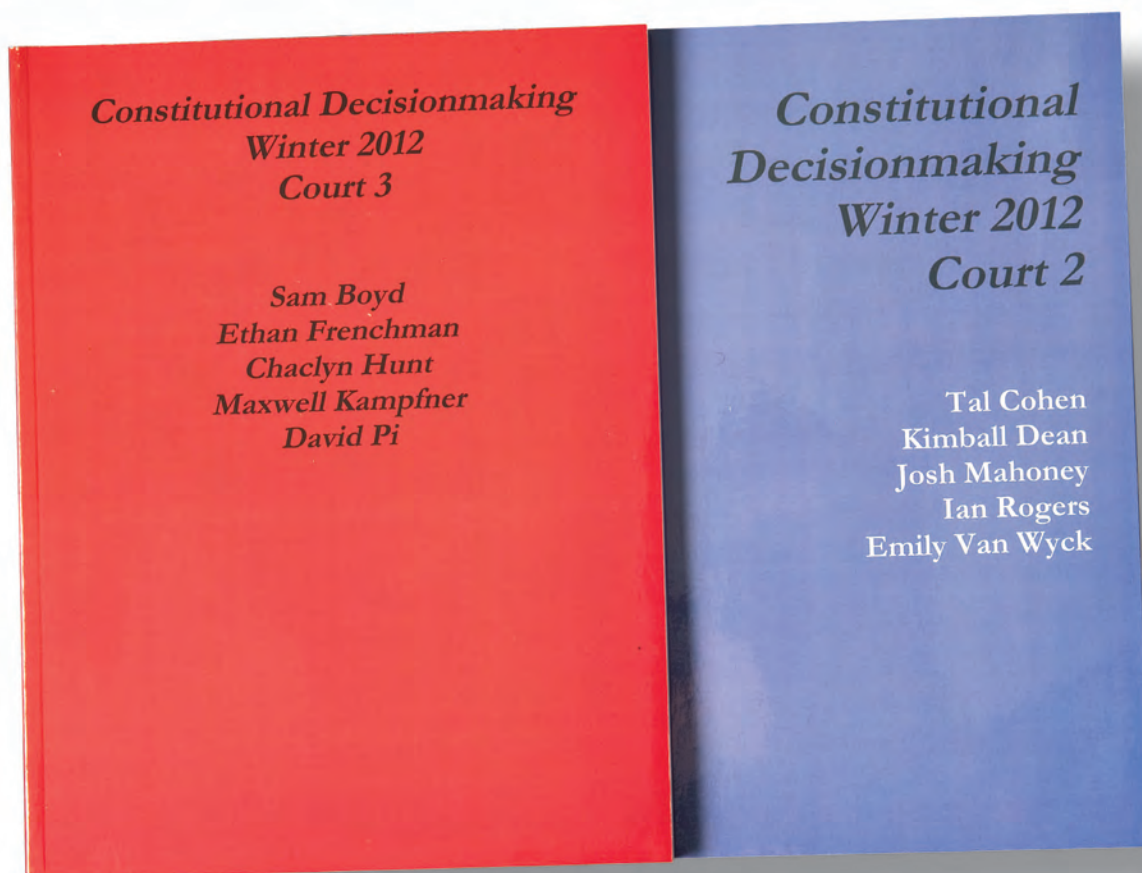
help my transition to The Law School. My excitement about that meeting was only matched by the puzzlement of my classmates, who seemed surprised that we were assigned faculty advisors and even more shocked that I had actually approached mine. No one I knew decided to approach their assigned advisors.

When I explained this to Professor Baird, he invited our lot to his home for chips and salsa. After some arm twisting, my crew was on board. To our delight, we learned about Professor Baird’s appreciation of modern art—Kandinsky, if I recall correctly—and opera, among other things. (Denizens of the Green Lounge would later come to appreciate then–Dean Baird’s refined taste in contemporary art, as his selections would grace those walls.) We left Professor Baird’s home that evening even more excited about choosing to attend The Law School.

Not surprisingly, Professor Baird’s largesse did not end with chips and salsa. Once a quarter throughout my 1L year, he and I would meet at the Quad Club for lunch to touch base on my classes and summer employment and to talk about his travel interests and research projects.

Through it all, Professor Baird imparted lessons that I continue to find useful in the practice of law. More than that, he exemplified the best of The Law School—dedicated to ideas, rigorous in inquiry, tolerant of divergent views, and, most of all, respectful of one’s colleagues.





## CONSTITUTIONAL DECISIONMAKING: A SIGNATURE CHICAGO LAW EXPERIENCE

By Meredith Heagney

In many ways, Professor Geoffrey Stone's Constitutional Decisionmaking class is a quintessential Chicago Law experience: The class is extremely rigorous and challenging. It is idea based and requires deep thinking about complicated topics under serious deadlines—both for the students and for Stone. It forces students to examine and constantly reconsider their ideas and judgments, and it encourages endless debate. The class is a true example of teaching students how to think like lawyers.

Suffice it to say, it is a *lot* of work.

Here's how Stone designed the class to work: 2L and 3L students can apply for admission. Students apply with classmates as a "court," made up of a group of five "justices." Stone typically chooses three courts by lot, and each operates

independently during the course of the seminar. Usually, about half of the students who apply get a spot.

Every week, each court gets the same two hypothetical cases that Stone created to focus on different aspects of a constitutional issue. In recent years, it has been the Equal Protection Clause, though in the past he has also focused on freedom of speech and freedom of religion.

Each court must carefully consider each case and write its opinions. A court producing just one opinion in a case is very rare; it's much more common for courts to turn in a majority opinion, a concurring opinion, and a dissenting opinion—and often multiple concurring or dissenting opinions. All this is accomplished within a week, so when the students receive the cases, they must read and analyze



them, decide who will write the opinions, circulate drafts and respond to one another's opinions, and revise and edit opinions very quickly.

Here's the catch: the students cannot rely upon any real judicial precedents to support their arguments. They approach the first case as it's the first case ever to interpret the relevant constitutional provision and then create their own body of law over time. Otherwise, Stone said, the research would take all their time, instead of the thinking. And that's the part he most prizes.

Each court's decisions build on one another, as the justices must grapple with their own precedents. Students are graded on every opinion they join, without regard to who wrote it, and Stone expects each opinion to respond to the other opinions in each case. By quarter's end, each court produces a full body of jurisprudence that Stone binds for them in a book that is commonly 200–300 pages, single-spaced.

"The demands on the student are enormous," Stone said, but the rewards are obvious. The opinions get much better

over the course of the quarter, and Stone has to look ever harder for inconsistencies and gaps in logic as the work improves. But he always demands more of the students. "It's a really great teaching experience for me because I can see how they are learning."

Stone has offered the class most years since 1973, except for the nine years he spent as University Provost, between 1993 and 2002. Consequently, it is remembered vividly by generations of alumni. Those who took it remember its rigor and rewards, and those who didn't simply remember its reputation. How Stone teaches the class is a major part of that.

"I remember Geof being very inspiring," said David Bradford, '76, a partner and cochair of the Litigation Department at Jenner & Block in Chicago. He said the class was, by far, his favorite during his time at the Law School. "He had a great ability to get people to do their own thinking and to challenge themselves. He challenged people in a very positive way, and he got people to push themselves and the limits of their own capabilities."



*A court meets in the library to discuss the week's cases. By quarter's end, Stone will give each member of each court a bound copy of their opinions. (Examples at top left.)*

Stone puts it simply: “I want them to come away with a much better understanding of how to think clearly and how to write clearly ... It trains them to be rigorous and self-critical thinkers.”

That heavy-duty thinking was sometimes a midweek challenge for the “justices,” said Alexis Bates, ’12, an associate at Skadden, Arps, Slate, Meagher & Flom. She took the class last winter.

“All the cases were right on the line. There were no easy cases,” she said. And sometimes, justices choose a side, and then, “as you’re thinking through and writing out that opinion, you end up talking yourself out of it and thinking it should go the other way altogether.” At least one time, one of her fellow justices changed opinions midweek, and the dissent became the majority, she said.

Bradford said the class was great training for his clerkship and later practice because it taught him how to be persuasive. “It helped us all appreciate how difficult judging could be and what type of advocacy or principles might be most appealing to a judge who’s concerned about precedential effect and the limits of their own roles as judges,” Bradford said.

As for the rigor, he has positive memories. “It was so much fun,” he said. “It was the kind of hard work you became so immersed in, and cared so much about, that it never felt like work.”

Bradford was one of the first students to take the class, the idea for which came to Stone when he joined the faculty in 1973. Stone, a member of the class of 1971, remembered critiquing many judicial opinions as a law student. He often wondered why it seemed so difficult for judges to write decent opinions.

He got his answer soon after graduation, when he clerked for Judge J. Skelly Wright in the U.S. Court of Appeals for the District of Columbia Circuit and for Justice William J. Brennan Jr. of the Supreme Court. Then, when he actually had the chance to write drafts of opinions, he saw how challenging it was, he said. One of the most difficult things was making sure the opinion reflected both the viewpoint of his judge and the other judges on the opinion; he had to strike a balance between what his boss considered the ideal argument and what the other judges would agree with.

“There are usually no definitively right answers to hard



*Stone said the class is intended to enable students to “work together in a complicated and stressful situation,” because that’s what law practice demands.*



questions, and even if you do your best, there will be arguments to make on the other side. It's easy to poke holes," he said. "I wanted to give students that experience." More than anything, he said, the class is "a device for enabling students to work together in a complicated and stressful situation, which is what law practice is like."

Stone's students say his teaching style is to be always available to talk about ideas, but to let the courts figure out their own issues. "Especially in the early weeks, figuring out what sort of court you are and how you're going to approach issues and different styles involves a lot of gnashing of teeth," said Josh Mahoney, '13, who took the course last year. "Professor Stone encourages that, that it should be difficult, especially at the beginning."

His court had a lot of "false starts," Mahoney said, but eventually found their way. "If you're stuck, Professor Stone gives you ways to think about an issue. Mostly he's a lighthouse, so to speak, but you and your group still have to try not to crash the boat into the rocks."

The class meets once at the beginning of the quarter, and then everything is done outside of class: The courts figure out when and how to meet within themselves, and they communicate with Stone through emails and in face-to-face appointments and office drop-ins. At the end of the quarter, Stone has the students over to his house to talk about the course. He also hands out statistics on how the present-day courts voted on cases as opposed to students from decades past. He changes one or two cases a year, but many have been around for a long time.

The results are very interesting. For example, *Edison v. Eberhart* asks whether the East Lansing, Michigan, school board may limit participation in school board elections to citizens with children attending or soon-to-be attending the schools in the district. Between 1974 and 1992, 74 percent of judges found that unconstitutional. From 2003 to 2012, only 46 percent found it unconstitutional.

"I would guess this is because there was a significant change in Equal Protection doctrine in the real Supreme Court over time that downplayed fundamental rights jurisprudence under the Equal Protection Clause," Stone said. "As a consequence, I think students, reflecting in part what they learned in their courses, also became less certain about the merits of that branch of the Equal Protection doctrine. They were therefore more likely to uphold the law in *Edison* than were students in the earlier generation."

A change over time is also seen in *Gold v. Georgia State University*, where a female student argues that gender

separation in dormitories violates the Equal Protection Clause. Before 1992, only 30 percent of justices agreed. In the 20 years after, that number rose to 52 percent of justices.

"In the earlier era the idea of same-sex dorms was still pretty foreign to them. They simply didn't yet exist in most colleges and universities," Stone said. "By the time of the later set of decisions, many of the students had experienced same-sex dorms and didn't see the idea of such an arrangement as particularly untoward or problematic."

The longevity of the course is part of what Stone finds so satisfying. "I find it very rewarding from an educational standpoint," he said. "I can see, and students tell me, and alumni tell me 25 years later, how valuable it was."

Bradford, one of those early takers, didn't know the class was still offered. "I'm delighted to hear that," he said. "Generations have benefited from that class. I'd be surprised if it wasn't on a top-classes list for a lot of graduates of the Law School." ■

## CONSTITUTIONAL DECISIONMAKING WITH GEOFFREY STONE

Equal Protection Hypothetical Cases  
Comparative Results 1974-1992 and 2003-2012\*  
Percent of justices voting to hold law unconstitutional

Case	Issue	1974-1992	2003-2012
<i>Alexander v. Alabama</i>	Possibly corrupt economic classification	73%	59%
<i>Barker v. Boston</i>	Simply economic classification	9%	8%
<i>Dillworth v. Damforth</i>	Discrimination against African-Americans	98%	99%
<i>Edison v. Eberhart</i>	Inequality in voting	74%	46%
<i>Fellers v. Fellers</i>	Discrimination against women	87%	93%
<i>Gold v. Georgia State University</i>	Sex-segregated dorms in public university	30%	52%
<i>Holloway v. Harmon</i>	Welfare/right to travel	52%	32%
<i>Kent v. Kansas State University</i>	Affirmative action in public university	47%	50%

\*note: Between 1992 and 2003, Geof Stone was University Provost and did not teach the class





# ELEMENTS AT 75

DENNIS J. HUTCHINSON



**E**lements of the Law has been a fixture of the first-year curriculum since 1937 and has been taught by a more than a dozen faculty members since its inception. The description of the course in the Law School catalog has changed very little, but the content and nominal objective have changed, sometimes radically, with each new instructor. The changes have been the product not only of professorial idiosyncrasy but also of continuously shifting focus in theories both of teaching and of precedent in American law.

As with so many dramatic changes at the University of Chicago in the 1930s, Elements of the Law began with a conversation prompted by Robert Maynard Hutchins, who left the deanship of Yale Law School to become President of the University in 1929 at the age of 30. Hutchins inherited a distinguished research university whose initial momentum



Edward Levi

from its founding at the turn of the century was beginning to flag. Nonetheless, many members of the faculty were strong, and the undergraduate curriculum was in the process of being revitalized. Hutchins was eager to impose his own stamp on higher education, both in Chicago and nationally. He embraced the classics, especially as presented by his intellectual aide-de-camp,

Mortimer Adler, and correspondingly distrusted the empirical social sciences; the ultimate enemy was narrow professionalism, either of the curriculum or of the faculty. So it was natural that Hutchins, rebuffed by the divisional faculty on some early initiatives, would turn to the Law School to apply his hand.

Edward Levi, who had graduated from the Law School in 1935 and had spent the following academic year as a Sterling Fellow at Yale Law School, discussed the issue of an introductory course with Hutchins during mid-September of 1936. The next day, Levi sent Hutchins a copy of the introduction he and Roscoe T. Steffen of the Yale faculty had prepared for a set of materials entitled “The Elements of the Law.” The presentation undoubtedly appealed to Hutchins. The materials were dotted with snippets from the classics (Aristotle, St. Thomas Aquinas, Sir Henry Maine) as well as from famous cases at common law, and the introduction was frankly contrarian:

To put the matter bluntly the present course is a response to the growing demand for an intellectual attitude in law. Many of us have been too content to accept unquestioningly the aphorism that the common law is the perfection of all reason. Some lawyers have gone through life thinking that results they see about them are the outcome of natural law and inevitable. The present materials will justify themselves if they do no more than acquaint the student with some of the vital ideas in legal scholarship.

A year later, Levi taught Elements of the Law for the first time as a required course for entering students and used the Levi-Steffen materials.

The letter to Hutchins was a calculated risk on multiple levels. Levi acknowledged in the final paragraph that he was leapfrogging the academic chain of command in taking a curriculum proposal to the President of the University: “I feel that the form of this communication may be a breach of etiquette, but this is a pretty important matter and I am willing to risk it.” The “this” was twofold: both the proposal for the course and an addendum implicitly recommending Friedrich Kessler for an appointment to the law faculty to teach comparative law. Elements was the more pressing issue, however, because the intellectual emphasis of the new curriculum would be framed by the introductory course. Levi was eager for something besides the traditional litany of received wisdom about courts, precedent, and reasoning by analogy adding up to the “perfection of reason.” At the same time, but not even bubbling beneath the surface of his correspondence with Hutchins, the Levi-Steffen materials were an indirect repudiation of the most extreme tenets of the American “Legal Realist” movement that had developed before World War I, crested around 1930–31, and was, at this point, on the downward arc of its influence in the legal academy.

In its simplest and most extreme forms, Legal Realism rejected the idea of law as a system of rules logically developed and rigorously applied. Rather, legal decisions were seen as the products of personal and political bias, presented in a syllogistic form. The formal opinions were said to be really no more than post hoc rhetorical exercises. As Karl Llewellyn, the most voluble and colorful of the Realists, put it in his introductory lectures to first-year law students at Columbia University (first published in 1930 as *The Bramble Bush*):

This doing of something about disputes, this doing of it reasonably, is the business of law. And the people who have the doing in charge, whether they be judges or sheriffs or clerks or jailers or lawyers, are the officials of the law. What these officials do about disputes is, to my mind, the law itself.<sup>1</sup>

Another passage echoed Oliver Wendell Holmes in his famous speech, “The Path of the Law”:

And rules, through all of this, are important so far as they help you see or predict what judges will do or so far as they help you get judges to do something. That is their importance. That is all their importance, except as pretty playthings. But you will discover that you can no more afford to overlook them than you can afford to stop with having learned their words.<sup>2</sup>

The year in which these passages were published, 1930, and the following year signaled the high-water mark of Legal Realism. Llewellyn and Roscoe Pound squared off in a famous exchange in the *Harvard Law Review*, and reviews of Jerome Frank’s psychologically oriented critique of the legal system, *Law and the Modern Mind*, simultaneously stoked the theoretical fires. With the arrival of the New Deal in 1933, the energy of the Realist critique began to dissipate. Many self-styled Realists took leaves to work in Washington for Franklin D. Roosevelt, and the Supreme Court’s “horse and buggy” reading of the Constitution created practical and political problems more urgent than a debate in professional journals.

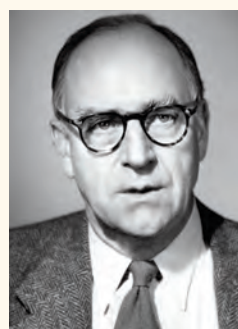
Although Legal Realism was on the wane, the issues that provoked the controversy were far from dead. At stake was no less than the question of whether law was an autonomous discipline or simply a specialized subfield of political rhetoric. The Levi-Steffen materials had something to say about the debate, but it was subtle and indirect. They had collaborated in one of the intellectual hothouses of the Realist movement, Yale Law School, and Llewellyn viewed Steffen as an intellectual fellow traveler if not a

card-carrying Realist, but *Elements of the Law* as edited by Levi and Steffen was hardly a doctrinaire Realist casebook. The selections attempted to demonstrate the influence and development of philosophical strains in Anglo-American law, and the case law examples illustrated a practical logic if not a tidy geometric system. None of the Realist tracts from Frank and Llewellyn or others was excerpted. The



Friedrich Kessler

furious debate in the law reviews and evangelical prescriptions of *The Bramble Bush* were invisible. The focus and tone of the *Elements* materials should have surprised no one. In writings at the time, both Steffen and Levi had gone out of their way to disavow many of the Realists’ more extreme enthusiasms. Steffen was a commercial lawyer who had taught at Yale since 1925, five years after taking his LLB there. He taught at the University of Chicago Law School in the summer of 1934, where he met Levi, who was a year away from taking his law degree. Steffen wrote extensively, particularly in the areas of negotiable instruments and banking, but also in agency and labor law. He also advocated changes in legal curricula and teaching materials. Speaking to the annual meeting of the Association of American Law Schools in 1932, Steffen ridiculed the “evangelical realist” who claimed “that rules and principles are wholly illusory; they are all subject to change without notice—and apparently for no discernible reason. I do not think I need to argue with this body that that is gross overstatement of the situation.”



Karl Llewellyn

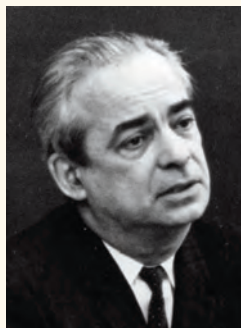
Edward Levi had tried to set himself off from the more extreme Realists in an essay published in 1938 entitled

**ELEMENTS OF THE LAW HAS BEEN TAUGHT EVERY AUTUMN OR AUTUMN/WINTER SINCE 1937, WITH THE EXCEPTION OF TWO YEARS (1976 AND 1984) WHEN IT WAS REPLACED BY A 1L COURSE IN CONSTITUTIONAL LAW. BEGINNING IN 1988 THE COURSE WAS SPLIT INTO TWO SECTIONS, AND WAS ALSO TAUGHT IN TWO SECTIONS IN 1942, 1962, AND 1969.**





“The Natural Law, Precedent, and Thurman Arnold.”<sup>3</sup> Arnold was, like Jerome Frank, one of the more rhetorically bellicose Realists, and his books, *The Symbols of Government* and *The Folklore of Capitalism*, were central tracts in the later days of the Realist episode. In patient and self-conscious steps, Levi accused Arnold of being a closet natural lawyer whose descriptions of legal reasoning tended to the mystical



Harry Kalven

and whose prescriptions were circular. Although Levi claimed to be reconciling three “approaches to law”—natural law, precedent, and the “Thurman Arnold way”—the essay in fact anticipates in argument and presentation his famous monograph, published a decade later, as *An Introduction to Legal Reasoning*.

In Levi’s hands, then, the Levi-Steffen materials used for the first time in 1937 for *Elements* were a sustained dose of anti-Realism, at least in its most flamboyant forms. The materials introduced



Soia Mentschikoff

students to basic principles and concepts of the Anglo-American customary legal system, emphasizing two overriding themes: the influence of social and political theory outside the legal system on the system’s behavior, and the incremental, sometimes un-self-conscious, development of new legal principles. If the traditional emphasis in first-year law school

courses was on the science of making deductions from legal rules, the Levi-Steffen approach taught that the important problems in law involved making a choice between rules, and doing so in a deliberate, disciplined fashion that avoided the artificial mysteries or conclusory certitude of the “Thurman Arnold way.”

The affinity between Steffen and Levi suggests that Chicago would have been a natural place for Steffen and *Elements* a natural course for him to teach, and, indeed, Levi tried to recruit Steffen. Or rather Robert Maynard Hutchins added Steffen to the growing list of Yale faculty members he tried to recruit during the 1930s in order to enhance the stature of the Law School. However,

*At stake was no less than the question of whether law was an autonomous discipline or simply a specialized subfield of political rhetoric.*

Hutchins’s only successful attempt to raid Yale before World War II was Friedrich Kessler, whom Levi had recommended to him when he returned from his postgraduate year at Yale. Kessler joined the faculty in 1939, became a full professor in 1943, but returned to Yale in 1947, largely for financial reasons.

World War II dramatically affected the Law School and the University as a whole. Enrollment in all units fell, university facilities were utilized for military and related training, and the future of the institution became clouded. Generous salaries and raids on other faculties became distant memories almost overnight. Teaching loads increased markedly, and the University struggled to keep afloat financially. In the fall of 1940, Edward Levi relinquished *Elements* to Kessler, who taught the course until 1944. Levi explained the change to Hutchins a few months earlier in a confidential memorandum in which he reported that his Spring Quarter course load included “*Elements of the Law*, Risk (which you knew as *Agency*); *Philosophy of Law*; *Bankruptcy and Reorganization*, and *Moot Court*”—a



total of 22 class hours per week, not counting tutorial responsibilities for first-year students. “This situation is not good for me nor for anyone else,” said Levi. Hutchins responded with characteristic dash and buoyancy: “I have learned with regret that you are not working hard enough. Mr. Adler and I will be glad to turn over to you the class which we are scheduled to teach in the Law School next year in order to round out your program.”

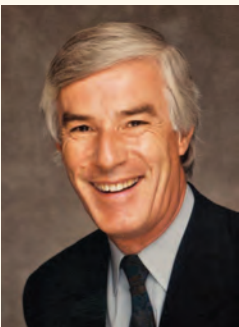
Enrollment trends in the Law School became grave as the war progressed, and Hutchins could not disguise the fact with either eloquence or flippancy. In the academic year in which he taunted Levi, the Law School conferred 53 degrees; three years later, at the conclusion of the 1942–43 school year, the number had plummeted to nine. Enrollments did not return to prewar levels until the 1946–47 academic year.

In 1945, Levi reclaimed his franchise on the Elements course, even though Kessler continued on the faculty for two more years.

After what can fairly be called a near-death experience during the war, the Law School was reinvigorated by the postwar boom. Enrollments surged, spurred by the G.I. Bill. The entering class for 1946–47 was allowed to reach 125, and that meant new faculty had to be hired as the returning veterans began to spread out over the entire curriculum. The losses of three senior professors—Kessler (to Yale), George Bogert (emeritus), and Charles O. Gregory (to Virginia)—meant that several courses were understaffed or not covered: torts, labor law, trusts, commercial law, legal history, and international law. Hutchins was willing to add one, and possibly two, senior faculty members to meet the shortfall, so the Committee on Additions to the Faculty recommended to Hutchins the appointment of “two of the following persons: Professor David Cavers of

Harvard, Professor Roscoe Steffen of Yale, Professor Friedrich Kessler of Yale.” Only Steffen came, but the appointment made a splash in the profession because it was said that no chaired member of the Yale law faculty had ever left to accept appointment at another law school.

More significant changes in staffing and teaching were on the way. Over the private but fierce objections of some anti-Semitic trustees, Hutchins appointed Edward Levi Dean of the Law School in 1950. Levi, hoping to capitalize



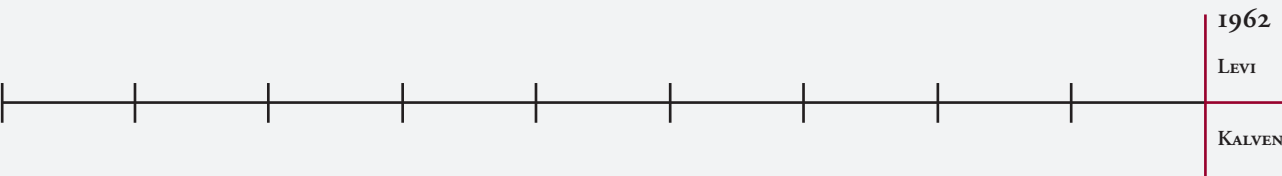
Gerhard Casper

on the momentum that began to build with Steffen’s appointment, immediately took two steps that promised to enlarge the School’s national profile. He engineered the appointment of Karl Llewellyn and Soia Mentschikoff to the faculty, and he convinced Hutchins to authorize 20 one-year, full-tuition scholarships to students entering the Law School in 1951 in order to



David Strauss

improve the quality and geographic diversity of the application pool. Llewellyn was 57 years old and had taught at Columbia Law School since 1925 after six years at Yale, his alma mater. He was now best known not as the author of *The Bramble Bush*, but as the chief reporter for the Uniform Commercial Code. Mentschikoff, 45, was the assistant chief reporter for the Code and his third wife. Both had held visiting positions at Harvard Law School in 1948–49, but antinepotism rules precluded their joint appointment there; Columbia had a similar policy. Levi finessed Chicago’s comparable policy by appointing Mentschikoff as “Professorial Lecturer,” a position under the Statutes of the University that did not implicate antinepotism policies.





The appointments of Llewellyn and Mentschikoff, combined with the earlier appointment of Steffen, were designed to identify the Law School as a center for the study of commercial law on an international basis. But Llewellyn was also nationally prominent in legal theory (his chair at Columbia was the Betts Professorship of Jurisprudence), and he had one of the most sustained records in the profession of writing on legal education. With Levi now occupied by the deanship, Llewellyn was the



Cass Sunstein

who has ploughed through *The Bramble Bush*, let alone heard or seen him in action, Llewellyn was a self-styled force of nature—exuberant, rambunctious, taunting,



Joseph Isenbergh

at least in print—but he continued to practice it, and Elements of the Law was the perfect podium for him.

The materials Llewellyn used for his brand of Elements could not have been more different from the Levi-Steffen

natural choice to teach Elements. Indeed, perhaps he should be described as the “irresistible” choice, notwithstanding the facts that Levi had just published his classic monograph, *An Introduction to Legal Reasoning*, and that the Levi-Steffen materials had now reached a fourth edition and had been published by the University of Chicago Press. As anyone knows

inspirational, and sometimes exasperatingly obscure. By the time he arrived in Chicago, the Realist moment had passed, and the firebrands of the 1930s had become domesticated, as deans (Wesley Sturges), wealthy lawyers (Thurman Arnold), and even judges (Jerome Frank). Llewellyn, by contrast, was unreconstructed: he no longer preached Realism—at

materials. None of the classic philosophers appeared in the mimeographed materials; they comprised only cases, and principally cases from one jurisdiction—New York State. The cases covered different topics, such as “indefiniteness” in contracts, warranties, or the law of foreign remittances, but the subject matter was incidental. For Llewellyn, the purpose of the course was to teach the craft of lawyering. To do that, he tried to create an almost clinical atmosphere in the classroom. Students would treat cases as problems, often taking the side of plaintiff or defendant, and then try to provide advice or to develop arguments to present to courts should the problem become a case or the case become a decision to be appealed. Thus, the single jurisdiction was essential to the teaching strategy: Students needed to “learn the law”—or appreciate its ambiguities and gaps—in order to work out their “advice.” As Llewellyn inimitably explained on the second day of class in 1955:

I call your attention to one thing, however, that distinguishes this assignment of cases from any other that you have had—you will have noticed that all of this set of cases come from a single court in a single state. And with this change in order, you will note that they occur in time sequence. The effect of this is that you are, as you work into the series of cases, coming to see them with pretty much the same eyes with which the lawyers and the respective courts saw the cases. The bulk of what has gone before is in your hands as you approach the case. And we can start to work over what it is the court was doing and the lawyers were doing case by case, and see what the process was that was going on. We are studying primarily in these cases the process. What was the lawyers’ job and how did they perform it? What was the court’s job and how did it perform it? And we see a new job coming up—the eternal problem of the court is with us; no matter how much you have got done a new one is coming up tomorrow. And we see the new ones come up and see the court use their old machinery for the purpose of dealing with it.



Although law schools were beginning to emphasize theory over rules in the classroom, Llewellyn remained as fixed in the 1950s as he had been 30 years before on the imperative of teaching “skills,” even in large first-year classes. In his view, first-year courses were often confused by the combination of substance and what he called “craft-skills” being taught from the same casebooks. His solution was not without its own problems, however. As two experienced second-generation teachers of the materials explain:

The presentation of the material in this form, in a course whose name revealed neither its content nor purpose, to students hungry for knowledge and direction, raised difficult questions of pedagogy for the instructor and created a tendency on the part of students to treat *Elements* as an afterthought to their apparently more relevant substantive courses.<sup>4</sup>

Worse, Llewellyn tended to overload his intellectual agenda for the course without clear indication to his students of when he was changing focus. At one minute, he was emphasizing “craft-technical” skills, at another “area-policy” questions, and at another questions of “general jurisprudence.”

*Mentschikoff and Llewellyn inspired countless students, either by their enthusiasm and warmth or by quiet acts of kindness in an often forbidding world.*

Compounding the problem was Llewellyn’s tendency to proclaim, without much elaboration, that the “arts of the legal crafts” were imbued with “deep truths about man’s nature and man’s life with his fellowman.” To top it off, the materials and class presentations were supplemented by required readings—plural—of *The Bramble Bush*, and,

depending on the year, at least one reading of Levi’s *Introduction to Legal Reasoning*. From time to time, guest lecturers addressed the class, but Llewellyn’s efforts to enlist fellow first-year teachers in coordinating their presentations with his were routinely if politely declined.

Karl Llewellyn taught *Elements* from 1951 until 1961, a few months before his death. Harry Kalven, who tended to take a more historically oriented approach to the course, and Edward Levi split the teaching duties in 1962, and

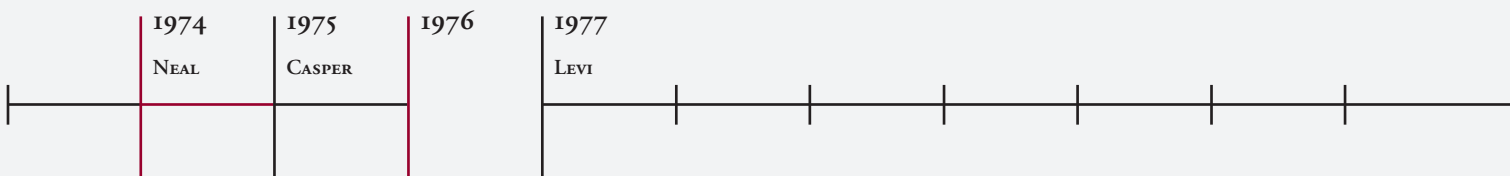


Dennis J. Hutchinson

Harry W. Jones, visiting from Columbia, taught the course in 1963. Then Mentschikoff took over her late husband’s materials and the course from 1964 to 1973, after which she left the Law School to become Dean of the University of Miami Law School. The franchise was intact, at least symbolically, but much of the energy had gone out of the enterprise.

Mentschikoff dutifully worked through the materials, but her passion seemed uneven and her final examinations often included an hour of true/false questions, which struck many students as undermining the emphasis on craft and nuance developed by the materials and the class. Nonetheless, both she and Llewellyn inspired countless students, either by their enthusiasm and warmth or by quiet acts of kindness in an often forbidding world. Nor was their long-term influence negligible. Geoffrey Stone attributes Mentschikoff’s *Elements* class, which he took in 1968, as the inspiration for his seminar *Constitutional Decisionmaking* (see page 18), which year in and out has won praise from students for its challenging structure—writing judicial opinions *tabula rasa*, based only on the text, followed by application of the precedents developed from scratch to new situations.

Mentschikoff’s departure posed somewhat of a quandary for the curriculum. In an academic ethos growingly committed to theory and in a profession struggling to





develop sensible critiques to the explosion of public law two decades after *Brown v Board of Education* revolutionized aspirations for the Constitution, “craft-skills” sounded dated or pedestrian. Dean Phil Neal taught Elements in 1975, and future Dean Gerhard Casper filled in the following year, but the course fell out of the curriculum in 1976. Then Edward Levi returned from his service as Attorney General and took up the course again from 1977 to 1983. During that period, and following his formal retirement in



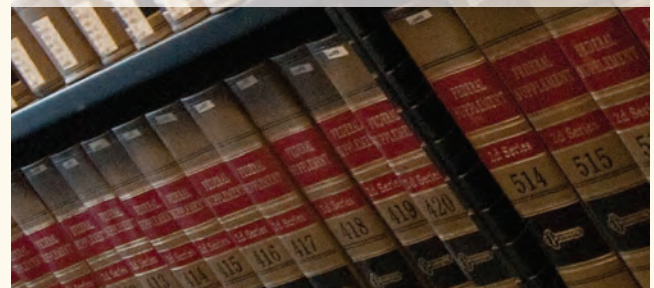
Rosalind Dixon

1984, he worked steadily to revise the Levi-Steffen materials, which had last been modified in 1950, but he never settled on a final version before his death. Cass Sunstein taught the course for the first time in 1985, and David Strauss did so the following year. Their versions of the Elements course cover the problem of reasoning by analogy in the case law system but also touch on larger themes that students encounter throughout the curriculum such as the tension between rules and discretion, the conflict between coercion and autonomy, and the recurrent mysteries of “interpretation.” Sunstein emphasized questions about the meanings of liberty and equality, the proper role of judicial review (tending to focus on *Lochner v New York* and the problems of constitutional “baselines”), and, later, rationality and behavioral economics. Strauss begins his course with a line of common-law cases that Levi employed in his Introduction and then compares the developments in those cases with the argument in Benjamin N. Cardozo’s *The Nature of the Judicial Process*. Aristotle makes an appearance, as do John Stuart Mill and Shakespeare; Edmund Burke plays a leading role along with Cardozo. But there is also behavioral economics, feminism, Friedrich Hayek, Holmes (of course), and John Rawls. Recent enlistees to the Elements faculty have included Richard McAdams and Geoffrey Stone.



## BY THE NUMBERS

- 16 – Number of professors who have taught Elements
- 2 – Number of visitors who have taught Elements
- 4 – Number of faculty members who have taught Elements only once (excluding visitors)
- 23 – Number of times David Strauss has taught Elements (most of anyone)
- 12 – Longest consecutive stretch of years with the same faculty member(s) teaching Elements (Strauss and Sunstein, 1996-2007)
- 2 – Number of years the course was not taught (1976 and 1984)
- 46 – Longest number of years between a faculty member’s first and last teaching of Elements (1937-1983, Levi)



1984	1985	1986	1988	1989	1990	1991	1992
	SUNSTEIN	STRAUSS	STRAUSS	ISENBERGH	HUTCHINSON	HUTCHINSON	STRAUSS
			SUNSTEIN	SUNSTEIN	SUNSTEIN	STRAUSS	SUNSTEIN

Assessing the effect of American Legal Realism on the Yale Law School between the World Wars, John Henry Schlegel quipped in 1979, “Curriculum reform at Yale proceeded in the time-honored way with the acquisition of new faculty members who brought new courses with them



Geoffrey Stone

and the departure of old faculty members who took their old courses away.” The experience at Chicago with respect to Elements is more a twice-told tale, with Edward Levi trying to provide a philosophical and pedagogical antidote to Realism before the war, with Llewellyn and Mentschikoff trying to plant Realist pedagogy in the theory-thickening air of Hyde Park, and finally Levi restoring the introductory course to true north. To some extent, the syllabi support that interpretation, notwithstanding that Levi’s *Introduction to Legal Reasoning* was routinely a common text, regardless of the instructor,



Richard McAdams

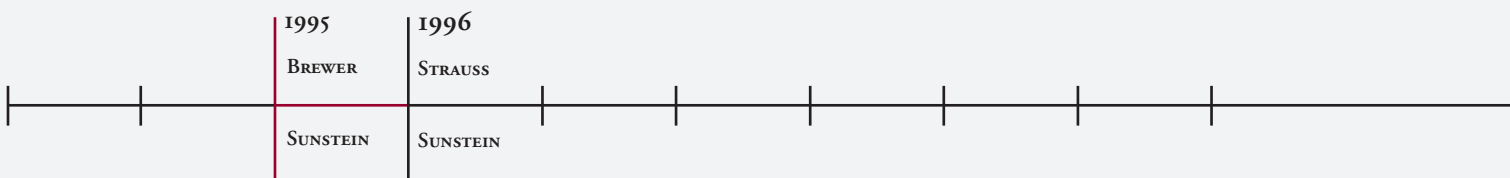
from 1949, when it was published, until Levi’s retirement 35 years later. The disparity between the two approaches could not be greater. Levi’s materials included numerous excerpts from classical philosophy, including, for example, Plato, Hobbes, Locke, Engels, Hans Kelsen, Savigny, Aristotle (*Nicomachean Ethics, Politics, Rhetoric*), St. Thomas Aquinas, and H. L. A. Hart (and that’s just in the first 200 pages of almost 1,200 pages of photocopied materials that also included case law). Llewellyn included no philosophy, only cases. Even the edition of the materials that were eventually published posthumously under Mentschikoff’s direction adds only notes or the occasional essay by a lawyer (often Llewellyn) or a judge;

formal philosophy is entirely absent. Levi had broad and deep ambitions for his course; Llewellyn, aiming to produce “lawyers’ lawyers,” was extremely narrow, notwithstanding frequent grand asides and ringing maxims.

I think there are deeper commonalities between the courses, despite their sharp differences in focus, scope, and tone. The congruence lies in their mutual hostility to the extreme, almost nihilistic, strain of Legal Realism and in the corresponding optimism about the capacity of a customary legal system to develop workable rules for concrete problems. To some extent, Arthur Linton Corbin, who spent half a century preaching that message, was the godfather of Elements of the Law. Since his days as a student at Yale Law School, Karl Llewellyn viewed Corbin as his “father in the law”; for decades, letters from Llewellyn to Corbin began, “Dear Dad.” In a letter to Llewellyn late in both their lives, Corbin recounted his “fight for life as a law teacher” during the dizzy height of Realism:

Probably 1928, when I had to drive a good beginning class to study the Law of Contracts, against the competition in their other courses of Bob Hutchins, Lee Tulin, and Leon Green, all three telling these beginners that there is no “law,” only separate cases—that each decision is a “chigger” decision or a stomach burp—that there are no organized molecules, only individual atoms—and all three (however green behind the ears) telling it with explosive atomic power. Did Bob Hutchins ever *read* an opinion?

For Corbin, the process of meticulously analyzing the facts and results of cases, then trying to generate a workable rule, was the essence of legal scholarship; showing students how to discern the patterns of behavior beneath the surface rhetoric of opinions was at the heart of law teaching. Llewellyn used vastly different rhetoric, calling the process “the Grand Style” throughout his career, but essentially marched in Corbin’s footsteps. And, in many respects, so did





Fritz Kessler, whom Corbin said was “like a brother,” although his civil-law background brought different insights and concerns to the debate.

Edward Levi had little trouble aligning himself with the Corbin-Llewellyn view of legal reasoning. Levi emphasized in *An Introduction to Legal Reasoning* that the kind of reasoning involved in the legal process is one in which the classification changes as the classification is made. The rules change as the rules are applied. More important, the rules arise out of a process which, while comparing fact situations, creates the rules and then applies them . . . . A controversy as to whether the law is certain, unchanging, and expressed in rules, or uncertain, changing, and only a technique for deciding specific cases misses the point. It is both.<sup>5</sup>

It is a testament to Levi’s tact and ingenuity that he could work closely and effectively from the very outset with Robert Maynard Hutchins, whose views of the legal process, at least when he was most deeply involved in it, were light-years from his own. It is true that Hutchins changed over time—many thought opportunistically—but in 1937 Hutchins declared, “No law professor can claim to be one if he separates himself altogether from the ‘realistic’ movement.” Like so many of his pronouncements at the time, his views are presented at such a general level that it is difficult to pin down exactly what he thinks.

However elusive Hutchins was, and is, the message of the Corbin-Llewellyn-Levi (-Kessler) lesson was clear, whether conveyed adequately by the syllabus or not, and is captured by almost every lawyer’s favorite poet, Wallace Stevens:

A. A violent order is disorder; and  
B. A great disorder is an order.  
These Two things are one.<sup>6</sup>

Corbin communicated the point by enormous industry and lucidity for almost a half-century; Llewellyn by bombast, cajolery, and passionate insistence; Levi (and

Kessler) by cold patience and incessant questioning of the conventional wisdom. In the end, we all became Realists to some degree, whether we appreciated it or not, and the challenge of their successors in the classroom was to figure out what to do with the realization. Llewellyn stated the challenge, almost as a mantra, in his teaching materials and from the podium for generations: “Ideals without technique are a mess. But technique without ideals is a menace.” As long as *Elements of the Law* remains in the first-year curriculum, this I know: Whatever the course description, the urgent issues Llewellyn reduced to an aphorism will remain at the heart of the course. ■

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<sup>1</sup> Karl Llewellyn, *The Bramble Bush* 5 (Oceana 1930).

<sup>2</sup> Llewellyn, at 7.

<sup>3</sup> Edward H. Levi, “The Natural Law, Precedent, and Thurman Arnold,” 24 *Virginia Law Review* 587 (1938).

<sup>4</sup> Leslie E. Gerwin and Paul M. Shupack, “Karl Llewellyn’s Legal Method Course: Elements of Law and Its Teaching Materials,” 33 *Journal of Legal Education* 64, 83 (1983).

<sup>5</sup> Edward Levi, *An Introduction to Legal Reasoning* 4 (University of Chicago 1949).

<sup>6</sup> Wallace Stevens, “Connoisseur of Chaos,” in *The Collected Poems of Wallace Stevens* 215 (Alfred A. Knopf 1954).



# STUDENTS *to* SCHOLARS: TEACHING THE LEGAL ACADEMIC PROCESS

Robin I. Mordfin



IT IS SAFE TO SAY THAT ALL STUDENTS WHO CHOOSE THE LAW SCHOOL COME HERE FOR THE STELLAR EDUCATION IT PROVIDES. FOR MOST, THAT MEANS GETTING A PHENOMENAL GROUNDING IN THE CORE OF BUSINESS OR CONSTITUTIONAL LAW, FOR OTHERS IT IS THE CHANCE TO STUDY WITH EXTRAORDINARY LEGAL SCHOLARS IN A VARIETY OF FIELDS. BUT FOR SOME, IT IS TO LEARN ABOUT THE LEGAL ACADEMY ITSELF, TO GAIN AN UNDERSTANDING OF AND FACILITY WITH LAW AS A SCHOLARLY ENTERPRISE. FOR THESE JD STUDENTS, THE OPPORTUNITIES TO SEE THE LAW SCHOOL FACULTY COME TOGETHER IN WORKSHOPS TO DISCUSS, ANALYZE, AND CRITIQUE THEIR OWN PAPERS ARE GREATLY

PRIZED. PERHAPS EVEN MORE, THESE STUDENTS WANT TO HAVE THAT EXPERIENCE WITH THEIR OWN PAPERS.

THE LAW SCHOOL TODAY OFFERS TWO OPPORTUNITIES FOR THE STUDENTS TO IMMERSE THEMSELVES DEEPLY IN THE KIND OF SCHOLARLY WORK THAT IS THE HALLMARK OF LAW PROFESSORS. BOTH OFFER UNPARALLELED OPPORTUNITIES TO WORK CLOSELY WITH FACULTY MEMBERS ON THE WRITING SKILLS CRITICAL FOR ANY LAWYER, ALONG WITH CRITICAL READING AND PRESENTATION. THESE SKILLS ARE INVALUABLE TO STUDENTS WHO WISH TO BECOME LAW PROFESSORS—AND EVEN FOR THOSE WHO DO NOT.



## LEGAL SCHOLARSHIP WORKSHOP

Lisa Bernstein, Wilson Dickinson Professor of Law, started the Legal Scholarship Workshop nearly a decade ago to give Law School students the opportunity to learn firsthand the ins and outs of creating, presenting, and constructively critiquing legal scholarship. In the fall quarter each year, Bernstein structures the course to show students the fundamental building blocks of an academic paper. She asks them to consider what it means to have a



Lisa Bernstein

scholarly take on a question that goes beyond a law review note and to move away from narrow legal question into a wider arena.

“We give a lot of workshops and seminars with very senior people who are presenting drafts that are nearly final,” Bernstein notes. “And it is a wonderful experience for the

students, but it makes it difficult for them to know how to go about creating their own scholarly work. It’s a challenge for students to go from a blank computer screen to the work presented at one of these workshops. Plus, the topics are not necessarily what new scholars should be thinking about working on.”

Throughout the first quarter, assistant law professors from around the country—often not only Law School alumni, but alumni of the Workshop—come to class to present papers in different stages and to receive criticism from the students. Students painstakingly read the work, break down the arguments, look at the evidence, and begin to learn to identify a good topic for a junior scholar to undertake.

“Lisa’s students are so thorough, I would have been more comfortable presenting in front of the faculty than in front of the class,” explains Zoe Robinson, ’08, Assistant Professor of Law at DePaul College of Law. “The students are very ambitious, and many of them want to be scholars, they want to prove themselves. They read every word of your paper, they understand the nuances, and they ask very clever questions in a completely constructive way. They understand how to tear a paper apart and how to help the scholar to put the paper back together in a helpful way. It’s terrifying because you know you are going to be critiqued on everything—your presentation, your gestures, your paper—but you really get what you need to improve your work.”

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## CANONICAL IDEAS IN LEGAL THOUGHT

“Most law students only see two aspects of what professors do: classroom teaching and finished scholarship,” says Thomas Miles, Clifton R. Musser Professor of Law and Economics and Walter Mander Research Scholar. “Until they have the opportunity to produce their own scholarship, they never see what goes into a finished piece of work—the review of the literature, the formation of an idea, the creation of outlines and drafts, the process



Lior Strahilevitz



Thomas Miles

of getting and evaluating feedback, the incorporation of feedback into iterations of drafts, and so on. As long as we intend to seriously train students to be academics, that is the exposure we need to provide.”

This year, Miles and Lior Strahilevitz, Sidley Austin Professor of Law, are offering a new course for aspiring academics entitled *Canonical Ideas in Legal Thought*. Miles and Strahilevitz spend the fall quarter working with students through a set of the most iconic works of American legal scholarship (see sidebar).

“During my first year on the faculty here,” Strahilevitz explains, “I discovered all the ways in which my own legal education had been deficient. I would show up at a faculty roundtable lunch and everyone at the table would reference terms and ideas with which I was unfamiliar. After doing my best to piece stuff together and asking the occasional ‘stupid question,’ I would spend my afternoon reading the articles that I wish I had read years earlier. I decided to co-teach this class because I wanted to help give Chicago students early exposure to ideas with which mature legal thinkers are expected to be conversant.”

Each student in the class becomes a discussion leader for one of the canonical works. “It forces students to stand at the front of the room and teach the article, which most of them have never done before,” Miles notes. Miles and Strahilevitz each present during one of the first two weeks

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## Canonical Ideas in Legal Thought *continued from page 33*

to provide examples and to show how different styles can be effective.

Courtney Cox, '14, has already earned a PhD from Oxford in Philosophy, so this process was more familiar to her than to most of her classmates. She particularly enjoyed working with and presenting Ronald Dworkin's famous 1975 article, "Hard Cases," because "law is so interdisciplinary. Discussing these articles with a group that doesn't necessarily have a philosophy background put a new spin on presenting academic work."

Cox finds this work with the canon to be very similar to Oxford's approach to graduate philosophy studies: students discuss what the central pillars of their areas are and why, they work to create their first projects, and then learn how

to give and receive constructive feedback, which is especially challenging in areas outside their own expertise.

While wrestling with the canon in the fall quarter, students write four reaction papers that critique one or more of the assigned works for a given week. "We want students to think critically about all these readings, their canonical nature notwithstanding," Strahilevitz says. "Every great argument has its problems, and a good legal scholar or lawyer has to be able to identify them and contextualize them."

Of course, students' growing familiarity with the canon changes the way they approach their own work. "It's really exciting and different to spend time looking at these foundational pieces," David King, '14, explains. "I've often read excerpts from them in other classes, or heard the ideas, but this is usually the first chance I've had to really delve deeply into the entire article."

Ryan McCarl, '14, agrees. "The material from these papers comes up all the time in my other classes," he notes. "These ideas pop into my mind all the time."

Once the foundation has been laid, students devote the winter and spring quarters to creating papers of publishable quality. In the winter quarter, the class does not meet together, but instead students work individually with Miles and Strahilevitz to hone an idea, often born from their reaction papers, and then to create an outline and a draft.

Full drafts are due at the beginning of spring quarter, and this is the first chance students have to read each other's work. Each student then presents his or her paper as they would in a faculty workshop. All participants are expected to read the drafts very carefully and provide substantial feedback.

But students are not the only ones receiving feedback. Miles and Strahilevitz intend to workshop their own papers with the class. "Tom and I think that insofar as possible all participants in the seminar should be equals," Strahilevitz says. "We teach, they teach. We write, they write. We are giving them a ton of feedback on their abstracts, outlines, and papers, but come spring we think they will gain as much valuable guidance from each other as they will from us. At every juncture, we have been wowed by how smart, creative, and constructive the students have been."

The paper topics vary as widely as the students' interests. King is writing about an aspect of the rules/standards dichotomy in constitutional law, while Cox is writing about trade secrets. Aimee Brown, '14, is looking at the judicial confirmation process, and McCarl is examining rulemaking in homeowners' associations.

What kind of student will get the most out of the class?

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### Canonical Ideas in Legal Thought Selected Readings 2012–2013

Thayer, "The Origin and Scope of the American Doctrine of Constitutional Law" (1893)

Holmes, "The Path of the Law" (1897)

Llewellyn, "Some Realism about Realism—Responding to Dean Pound" (1931)

Hart & Sacks, *The Legal Process: Basic Problems in the Making and Application of Law*, Problem No. 1 (1958)

Wechsler, "Toward Neutral Principles of Constitutional Law" (1959)

Macaulay, "Non-Contractual Relations in Business: A Preliminary Study" (1963)

Calabresi & Melamed, "Property Rules, Liability Rules, and Inalienability: One View of the Cathedral" (1972)

Posner, *Economic Analysis of Law*, chapter 8 (1973, 2011)

Dworkin, "Hard Cases" (1975)

Mnookin & Kornhauser, "Bargaining in the Shadow of Law" (1979)

Priest & Klein, "The Selection of Disputes for Litigation" (1984)

Rose, "Crystals and Mud in Property Law" (1988)

Jolls, Sunstein, & Thaler, "A Behavioral Approach to Law and Economics" (1998)

Farnsworth, "Do Parties in Nuisance Cases Bargain after Judgment?" (1999)

Kaplow & Shavell, "Should Legal Rules Favor the Poor?" (2000)

Strauss, "Common Law, Common Ground, and Jefferson's Principle" (2003)



**Legal Scholarship Workshop** *continued from page 33*

The workshop experience, for which Chicago Law is so well known, is something many graduates still crave.

“I go back now to present to the students, and I prepare like I am going to present to the faculty of a top-10 law school,” explains Franita Tolson, ’05, Betty T. Ferguson Professor of Voting Rights at Florida State University College of Law. “In real life, the faculty do not read your paper, or if they do, not very carefully. These students rip your paper to pieces. The interaction really helps you to assess the quality of good legal scholarship.”

Guest presenters come in for about two hours. During the first hour, the speaker gives a 20-minute talk and then takes questions for the next 40 minutes. In the second hour, the class focuses on aspects of public speaking and on the structure and content of the papers, then discusses exercises they can use to learn to become better presenters.

“I have done it a couple of times now, and every time it was surprising and full of interesting, great comments,” says Shahar Dillbary, LLM ’03, JSD ’07, Associate Professor of

Law at the University of Alabama Law School. “You try to figure out ahead of time what will be their attack, their angle, and they always find some new way to make you go deeper, even to the edges of the paper. It is a huge, huge benefit.”

While criticism is a huge part of the first quarter, the key

*continued on page 36*



*Professor Lisa Bernstein started the Legal Scholarship Workshop to provide students the opportunity to do the work of legal academics while still in law school.*



*Adi Liebovitch, JSD candidate, questions one of the visiting scholars.*

## Canonical Ideas in Legal Thought *continued from page 34*

Miles says he looks for a spark of creativity in the students, but that isn't sufficient. They need to be capable of having a novel idea that moves their field forward and also need to craft an article that fleshes it out. Finally, they need to be able to present the idea to others. "Chicago believes in the workshop process," Miles says. "It is critical to be able to receive and incorporate feedback."

But does this mean that everyone in the class is destined for a life in legal academia? Right now that is unclear. Cox, who has already spent a great deal of time in the academic world, is very excited to try out litigation this summer and still doesn't know where her career will take her. Similarly, Brown says that she doesn't know yet if it is what she wants to do, but now she feels she has a much better understanding of what it would be like. "It is such an enjoyable experience that it really increased the chances," she adds. McCarl knows he wants to teach and write in some capacity, but thinks it is impossible to say as a law student that he definitely wants to be a professor. "It's such a narrow road, but I want to leave that door open," he explains. "It's incredible to have so many opportunities here to do theoretical work, and the skills I'm learning will be useful even if I don't end up a law professor."

By the end of Canonical Ideas, students will have completed a polished piece of legal scholarship that can help them to move forward in an academic career. For some students, this will be a writing sample for a clerkship or may be published. For others, it will serve as the springboard for their futures elsewhere in the legal profession.

"With the changes in law firm practice, it is really no longer possible to work full time and write a scholarly article on the side, the way previous generations did," Miles explains. "Our graduates often need to take fellowships before becoming academics just to get some unfettered time to create a portfolio of writing. Students who take our class will end up with a piece at the end that may mean they can go directly onto the academic job market if they choose to do so."

Strahilevitz is confident that he is helping to form some of the best legal minds of the future. "There are going to be first-rate academics coming out of this group of students—I'm certain of that," Strahilevitz notes. "There are also going to be students who think they might want to be law professors, but they discover by the end of the year that their hearts aren't in it. We regard both of those outcomes as success stories." ■

## Legal Scholarship Workshop *continued from page 35*

is that critiquing is taught as a constructive skill that can be used in any legal career, whether it be in practice or academia. "We were not taught to just rip apart a person or his ideas," explains Rachel Levy, '04, Attorney Advisor in the Office of Tax Policy, U.S. Department of Treasury. "We were taught to see holes, to critique, and to find positives—and if we found negatives, to figure out ideas that would bring solutions. This is helpful in all kinds of law because when you look at something, in my case a regulation, it is easier to make it better."

The second quarter of Bernstein's class is about creating a community of scholars. Students look at different topics for the scholarly papers they will write and have others in the class pick their thinking apart to determine if it is a viable project. Students attend a weekly roundtable, after which they spend the next week doing additional research to make their topics and outlines stronger. The whole process of writing a paper is broken down into pieces, and after a few weeks students begin working on their projects more independently.



Shahar Dillbary, LLM '03, JSD '08, Associate Professor of Law at the University of Alabama, addressed the Workshop in November.



“But it is not just Law School students who attend the Workshop,” notes Bernstein. “We get game theorists, moral philosophers, political science grad students; we even sometimes have post-docs who come. After all, the skill of knowing how to identify a viable topic and then how to build a strong, well-constructed argument is vital across all disciplines.”

The third quarter of the Workshop bears a strong resemblance to the first, except that this time, it is the students in the class who are presenting their papers at different stages of completion. The goal, according to Bernstein, is to teach students what it is like to be on a faculty like that of the Law School, one where scholars bring their work for input, assistance, and critique.

“Learning to build an academic paper from scratch gives us a lot more than confidence,” Robinson says. “It is one thing to think you can analyze a paper, it is another to ask a question in front of Richard Epstein. Working all the way through the process and finishing with a real piece of scholarly research helps us to really think like faculty.”

The breadth of application of the skill set learned in these classes is borne out by their alumni, who have often found

that the skills they acquired were invaluable in the practice of law. “Lisa’s class is actually a lot like a meeting at a law firm, especially the second and third quarters,” notes Jamie MacLeod, ’12, an associate at Williams and Connolly. “It’s like working on a litigation team where you develop ideas over a fairly long period of time and all the minds in the room feed off of each other. Plus, you need a certain amount of tact to get ideas and criticisms on the table—at a firm you don’t want to go around offending everyone you work with. It really teaches you to work with other attorneys.”

By the end of the Workshop, students have developed an academic paper worthy of professional evaluation. For many, this process is exhilarating and allows them to understand that what they truly want is a career in academia. For others, it gives them tools that will help them in any kind of legal career.

“Taking Lisa’s class was the best choice I made as a student,” Tolson remarks. “I had to interview to get in and the experience completely changed my life. When I started I wasn’t sure if I wanted to be a legal academic, but after learning to really assess the quality of legal scholarship, not just substance, what you should be thinking about as a scholar, I knew I had found what I wanted to do with the rest of my life.” ■



*Students take very seriously their responsibility to dig deeply into the work of the scholars who come to present papers.*



# CROSSING THE MIDWAY PLAISANCE, BY AND BY

— Martha Nussbaum —



ON FEBRUARY 7, 2013, MARTHA NUSSBAUM, THE ERNST FREUND DISTINGUISHED SERVICE PROFESSOR OF LAW AND ETHICS, DELIVERED THIS SPEECH TO THE CLASS OF 2014 AT THE ANNUAL MIDWAY DINNER. THE MIDWAY DINNER, AS MANY ALUMNI WILL REMEMBER, TAKES PLACE IN THE FIFTH WEEK OF THE SECOND QUARTER OF STUDENTS' SECOND YEAR, THUS THE MIDPOINT OF THEIR CAREERS AT THE LAW SCHOOL. IT IS TRADITIONAL FOR THE FACULTY SPEAKER TO TALK ABOUT THE VIRTUES OF AN INTERDISCIPLINARY EDUCATION—OF "CROSSING THE MIDWAY." PROFESSOR NUSSBAUM IS, EVEN BY OUR FACULTY'S STANDARDS, UNUSUALLY WELL QUALIFIED TO DELIVER THIS MESSAGE, AS SHE IS APPOINTED IN BOTH THE LAW SCHOOL AND PHILOSOPHY DEPARTMENT AND IS AN ASSOCIATE IN THE CLASSICS DEPARTMENT, THE DIVINITY SCHOOL, AND THE POLITICAL SCIENCE DEPARTMENT, A MEMBER OF THE COMMITTEE ON SOUTHERN ASIAN STUDIES, AND A BOARD MEMBER OF THE HUMAN RIGHTS PROGRAM.

In 1893, a new anthology entitled "Great Comic Songs—Thousands Sold" was published in New York. It included one song that definitely has a Chicago pedigree. I offer a few of the timeless lyrics:

Once I walked about the Fair, And quite by Chance  
A big wide street that open'd there Caught my glance.  
Of all the places that ever came, The joy of life to enhance,  
I shall never forget its name, Midway Plaisance.

As the narrative continues, this traveler from far-off Manhattan reports amazing sights on this joyous street: a "Lulu bird from far-off France," a "Crocodile do[ing] a shadow dance," and even, shockingly, a "Nautch girl do[ing] a Nautchy dance, quite like a French quadrille, only worser still." He ends with a refrain that frames the Midway as a kind of dream of paradise: "Midway Plaisance, Midway Plaisance, I'll get there by and by."

The song is of course about the Columbian Exposition of 1892–3, where all the sober exhibits displaying industrial accomplishment took place in temporary buildings near the lakeshore known as the "White City," architecturally



pristine, sober and humorless in tone. But outside, on the Midway, there was much more fun to be had: the world's first Ferris Wheel; Buffalo Bill's Wild West Show; and a whole range of booths with circus and carnival aspects, some of which the song literally describes.

All of this took place in the middle of our new university, from its inception a sober-minded and idealistic place. But the color and life spilled over in a lasting way, and to this day the University of Chicago has always been special—if not exactly for Nautch girls and crocodiles, still for the bold ways in which it mingles the disciplines and pushes their boundaries, challenging accepted ideas of what is disciplinarily proper and sober. Uniquely among the great universities of our nation, ours makes it easy and normal for professors to co-teach with faculty in other departments or even schools, for them to offer, without bureaucratic

*It's indeed a carnival of interdisciplinary delights, and what's unknown at any other law school is the ease with which you can enjoy it.*

impediment, courses available to multiple units, and even, rarest of all, to invite students to cross over that symbolic strip of grass to take courses that mingle professional school students with students pursuing degrees in humanities, social science, and science. These characteristics are true in spades of our Law School.

As a law student here, you can right away, even before thinking about electives, count for full law credit any class taught by any member of our Law School faculty, even if that class is on Cicero, or John Rawls, or Nietzsche. When we add to this the electives you can choose from any part of the university, it really does begin to look like that magical and subversive dreamscape. Law students can, and some do, study the Kama Sutra with the great scholar of Hinduism, Wendy Doniger; investigate Buddhist ideas of the self with Steve Collins; consider under what conditions monkeys abuse their offspring, under the guidance of primatologist Dario Maestripieri; delve into the neuroscience of empathy under the tutelage of neuropsychologist Jean Decety; join Nobel Laureate James Heckman's projects involving intervention in early childhood education; study

Roman drama with the amazing classicist Shadi Bartsch; or investigate many different areas of world history with the resources of our rich history department. It's indeed a carnival of interdisciplinary delights, and what's unknown at any other law school is the ease with which you can enjoy it (not prohibited by calendar differences or bureaucratic impediments). Even if until now you have not crossed that symbolic strip of grass to take a class, your legal education, in your last four quarters, can "get there by and by," partaking in the advantages of that magical place.

When I began thinking about this speech and about the history of the Midway as both divider and uniter in our university's history, a number of themes came to mind. One is the theme of time. The *Fountain of Time*, that large sculpture at the West end of the Midway, was designed by Lorado Taft, who said that he was inspired by a poem by Henry Austin called "The Paradox of Time." It begins with the immortal words: "Time goes, you say? Ah no! / Alas, Time stays, we go." You are all probably thinking about that already, hopefully in a less sentimental style. That's too obvious a theme, however, and I rejected it.

As I pondered, events overtook me. A new set of assaults on the very idea of an interdisciplinary Midway-crossing legal education made me decide to revisit that issue in our law school's history and to say something about why I feel that the recent assaults are misguided and the education you are receiving here is so precious.

What's in the air—in a new curriculum designed by alumni at NYU; in an op-ed in the *New York Times* by two



*Professor Nussbaum and the guests at the Midway Dinner joined Dean Schill in a toast to the Class of 2014.*

leading legal educators, one the Dean at Northwestern; and, more informally, in numerous law schools I've recently visited—is the idea that we cannot afford the old three-year curriculum, with its invitations to elective

courses and hence to interdisciplinarity. We need to offer a stripped-down two-year legal education, aimed narrowly at legal practice (or, in the NYU variant, a third year devoted to practice-oriented study). All these proposals involve cutting out what those two eminent authorities in the *Times* amazingly call “the third year, those famous semesters in which, as the saying goes, law schools ‘bore you to death’.” Given the general courses that a legal education must include, dropping the third year offers no



*Professor Nussbaum and Professor Saul Levmore talked with students after the dinner.*

time for interdisciplinary electives, but the new wisdom is that this would be no loss. Proponents of the NYU curriculum, quoted in an earlier *Times* article, singled out “Nietzsche and the Law” as a particularly pointless and allegedly boring exercise—not understanding, apparently, how such a class, if our Nietzsche expert Brian Leiter taught it, would be extremely germane to thinking critically about the historical and cultural origins of many of law’s most sacred concepts. (In fact, Leiter doesn’t offer such a course, and he is not aware of anyone who does, so the example was presumably made up to make fun of what the NYU folks thought we should consider irrelevant.)

Now of course the issue of cost is huge, and I do not mean to brush it aside. I think all law schools owe it to their students to find more resources to help them complete a three-year degree without saddling themselves with a debt burden that will cripple them for life. That, however, would be a topic for a different talk. Means follow ends, and we must first get clear about whether, and why, our traditional goals are valuable—as the experts from NYU and Northwestern say they are not. So, to defend our own approach, let me go back to the founding of our Law School, not long after that famous carnival.

University of Chicago President Harper initially thought not of a law school, but of a research department of Jurisprudence. He feared that a genuine professional school would be too intellectually thin to contribute to ongoing debates about the goals of our society and the nature of social justice. And indeed, as practiced at that time at Harvard and elsewhere, legal education was both thin and narrow. It had little to say about broader social questions. However, Harper’s leading advisor on law, German political scientist Ernst Freund, then a professor in our department of Political Science and the main architect of our law school, persuaded Harper that things could be otherwise. Freund, with degrees in both political science and law, was a distinguished scholar who had practiced law for some time, and who wrote on such issues as the police power and the rights of political dissidents in wartime. He was the first eminent legal thinker to argue that the speech rights of dissidents are protected by the First Amendment (a position that is by now universally accepted but that was considered pretty shocking in 1918, when he advocated it).

Contacted by Harper about the future of law in the University, Freund argued that the University of Chicago should not content itself with creating a research department of jurisprudence. Instead, it should think of a new and richer way of training lawyers for the profession. Our country, he argued, needs lawyers who can think broadly about social issues, and that what they need from their education includes both excellent technical legal instruction and also the input of social science and political philosophy. He emphasized the importance of public law, which was at that time not taught in major law schools. This type of study was not just for researchers, but for practitioners themselves, so that they could serve the public good with a widely informed and critical perspective. He wrote:

Unless ... a university law school explores all the resources of law, learns from history, and inspires itself by university ideals, it does not do its full duty to the legal profession; but if, inspired by these ideals, it succeeds in broadening and deepening the law-consciousness of the legal profession, and indirectly thereby of the community, that will ... be the most valuable contribution that a university can make to law and to legal science.

Harper agreed, with the result that the first curricular proposal for the new law school, drafted by Freund, included a good deal of constitutional law and administrative law,



along with criminology, experimental psychology, comparative politics, and the history of political ethics. Interestingly, both constitutional and international law were required in the first year.

There were hiccups along the way. As his first Dean Harper hired a scholar trained at Harvard, who did not like Freund or his ideas, which he referred to as “foreign ideas”—despite the fact that Freund, though educated in Germany, was actually born in New York and had practiced

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law in the US for some years. I am guessing that this reference to “foreign ideas” was a coded way of alluding to a distaste for Jews, a prevalent sentiment. Freund was the first Jewish law professor in the US and one of the few Jews prominent in social science anywhere in the country. (We see here something very interesting about Harper, who entrusted his cherished plan to someone who would not even have been appointed to any post in most universities at the time.) So the Harvard man fought with Freund, and came to Chicago with a guarantee that he, not Freund, would run the show. And yet, at the end of the day, when the new school opened in 1902, its curriculum was basically the plan that Freund had designed, and Freund was firmly ensconced as a leading faculty member. At the first convocation, President Harper defended the broad curriculum, saying that legal training is incomplete unless it includes “a clear comprehension of the historic forces of which [laws] are the product, and of the social environment with which they are in living contact. A scientific study of law involves the related science of history, economics, philosophy—the whole field of man as a social being.” (I note that this last phrase was recently quoted by a member of our 2L class in a published letter to the editor in the *New York Times*

responding to that op ed I’ve mentioned.)

The Law School continued on its course, unswerving. Freund’s subsequent rise to national eminence with his work on the First Amendment, hailed by Learned Hand and ultimately even by Holmes, only deepened his influence. In 1932 at the age of almost 70, in a convocation speech, looking back at the history of the Law School, he judged that his ambitious interdisciplinary plan had been successfully achieved.

The Freund plan, as we may call it, has only deepened and broadened from that time until the present day, gradually attracting imitators around the country. It explains why philosophers, psychologists, economists, political scientists, and other scholars from “outside” fields, or with dual degrees, now teach in law schools and why many law schools encourage law students to take courses outside the law school—though ours much more successfully than others because of our low quotient of bureaucracy and our uniform calendar. Now the Freund-Harper idea has come under attack.

I believe we should answer today’s attackers in just the way Freund and Harper answered their critics. Our society is not perfect, to put it mildly. Nor are its laws perfect. Lawyers should not just be instruments of the status quo, obeying its norms without reflection. (That’s basically what I think the two-year curriculum produces.) They should be independent and critical participants, who work to shape a future that is better than the past. Far more than many nations, ours has realized broad social objectives through lawyering. Both the Civil Rights movement and the feminist movement offer stirring examples of how lawyers who think outside the box can do something major that benefits us all. But it doesn’t need to be splashy and major, or even connected with justice. In every area of law, there is irrationality, waste, stupidity, and possibly injustice afoot, and you are all going to be able to ferret these defects out and to set to work changing them. And this is so in large part because you will have the broad interdisciplinary perspective made possible by our model of legal education, including its invitation to join the carnival across the Midway.

I think the traveler in the song is correct: the Midway is not an achievement, it is an enticing life destination—a way, for all of us, of continually moving toward life’s most inclusive goals, with broad purpose, with reflection, and also with joy. It’s not just about law school, it’s about how we live lives in the law. Let’s hope we all “get there by and by.” ■

A hand holds a tablet displaying a bulleted list of legal research steps. The list includes: any potential conflicts?, think about obstacles (with sub-point: strategies to address), some reason to think is possible, steps for us: (with sub-points: research the group, done this before?, look for what sorts of regs/subsidies available for supportive housing for vets, Westlaw, any other groups/developments that do a similar thing, fed handbooks), supportive housing: housing with social, medical supportive services (with sub-point: different types/different intensity).

# PLAN, DO, REFLECT:

## CLINICAL TEACHING AT THE LAW SCHOOL

By Meredith Heagney

For a full week last fall, Professor Alison Siegler and Jason Feld, '13, spent between 12 and 15 hours a day in the Mandel Legal Aid Clinic, writing an amicus brief for *Alleyn v. United States*, a US Supreme Court case on mandatory minimum sentences. Sections of the brief were also written by Frank Dickerson, '10, and Charles Woodworth, '11, now at Mayer Brown. Sarah Nudelman, '13, conducted a huge amount of research for the brief.

Then, in January, Siegler, Feld, Nudelman, and Federal Criminal Justice Clinic Fellow Erica Zunkel traveled to Washington to watch the oral argument. They observed the Supreme Court justices and parties as they engaged in highly intellectual dialogue about the legal issues at the heart of the case. In response to a question from the justices about the practical implications of the case, the federal defender referenced the clinic's amicus brief, and the justices asked follow-up questions about it. Afterward, Siegler and her students met to talk about what had happened and to make predictions about the ultimate outcome of the case.

This is what teaching looks like in the Law School's clinics. Siegler is the Founder and Director of the Federal Criminal Justice Clinic, the only legal clinic in the country

dedicated solely to representing indigent defendants charged with federal felonies.

Siegler, a former federal public defender, follows the general model of clinical professors at the Law School: plan, do, reflect. If that sounds simple, it's not. Clinical teachers have to balance two critical goals: educate the next generation of lawyers, and give the best possible representation to clients in what tend to be very complicated, high-level cases. The clinician is the safeguard, the professional who makes sure the students' work is top-notch. And as talented as Chicago Law students are, they are still students. It takes enormous effort on the part of the professors to make sure the legal products are as good as they can possibly be. Luckily, that is exactly what they do best.

A single motion written by one of her students goes through 15 to 20 drafts, Siegler said. The process is equally rigorous for oral arguments, for which students prepare by drafting scripts, conducting moots with Siegler and fellow students, and thinking ahead to every question the judge might ask.

Siegler assures her students before they stand up in court: "You've got your script, but you might get different questions. You're prepared. You know the answer to whatever the



judge is going to ask.”

The Supreme Court case, *Alleyne*, asks whether the Court’s decision in *Harris v. United States* (2002) should be overturned. *Harris* held that the Constitution does not require a jury to find the facts needed to impose or increase a mandatory minimum sentence. For example, a jury could find a defendant guilty of distributing drugs, and a judge could impose a mandatory minimum sentence based on the amount of drugs, a fact that was not charged in the indictment or proved to the jury beyond a reasonable doubt.

In their brief, written on behalf of The Sentencing Project and the American Civil Liberties Union, Siegler and her students argued that *Harris* must be overturned, because it is not consistent with the Court’s Sixth Amendment jurisprudence. They also argued that overruling *Harris* would resolve a circuit split and would reduce racial disparities in sentencing. The Supreme Court’s decision is pending.

The general “plan, do, reflect” model permeates the Clinic, in which about 175 students participate each year, said Jeff Leslie, who is Acting Associate Dean for Clinical and Experiential Learning and also Clinical Professor of Law and Paul J. Tierney Director of the Housing Initiative. He is Faculty Director of Curriculum as well.

“Our students do things that the faculty would do at other schools,” he said. “Our job is to make sure our client service is top-notch. That’s why it requires close supervision.”

For example, in Leslie’s commercial real estate clinic, his students need to learn how to be deal lawyers for different parties involved in affordable housing development: community-based housing developers, tenant groups, and others. Leslie teaches students how to advise clients on structuring issues, construction loan documents, construction contracts, purchase and sale agreements, partnership agreements, and other contracts. They also work on securing zoning and other government approvals, assist clients as they work to resolve compliance issues, and participate in the preparation of evidentiary and closing documents.

To get the students started, Leslie borrows some standard classroom techniques: lectures, law review articles, and templates from real-life transactions. He also guides students through an interviewing exercise in which they role-play as clients and attorneys. Then, when it’s time to do the actual transactional work, Leslie is there, watching closely.

When the task is complete, “we go over with them how it went, and come up with an individualized plan to improve,” he said.

Leslie strikes a helpful balance of supervising without

micromanaging, said Hallock Svensk, ’13, who spent so many quarters in the clinic that he had to quit; he couldn’t earn any more credit.

“Jeff’s not going to hover over everything you do. It’s going to be what you make of it,” Svensk said. “It’s about you going and figuring it out yourself.”

In the fall, Svensk gave a presentation to tenants in an 18-unit affordable housing development that was transitioning from a rental to a cooperative ownership model. His job was to train the residents about what a co-op is, how it is financed and operated, and what would be involved in the upcoming conversion transaction. Before Svensk gave the real presentation, he gave it in class, and Leslie offered critiques and feedback. It has been the same when he has attended a meeting or written a memo, contract, or other document, Svensk said.

“It’s a lot of coaching you to be confident,” he said. “He asks, ‘how did that meeting go? Did you speak up? Did you know what you were talking about?’” Leslie also gave him a lot of advice about dealing with the politics of any given situation, when different groups are coming together in an effort to collaborate.

Professor Elizabeth Kregor, Director of the Institute for



Jason Feld, ’13, Criminal Justice Clinic Fellow Erica Zunkel, Professor Alison Siegler, and Sarah Nudelman, ’13, at the Supreme Court.

Justice Clinic on Entrepreneurship, teaches her students early that they can prepare very thoroughly for just about anything, even a seemingly simple phone call.

“It takes a while for students to understand how much preparation they can do and how valuable that preparation can be,” she said. She also encourages students to forgo sample or template contracts and start from scratch, which forces them to think through the basics of the contract and its goals.

Sometimes clinical professors are the ones doing the transactional negotiations or courtroom arguments, and the students observe. Other times, they help the students plan the task, and then the professor observes as the student completes it, ready to jump in if necessary. And other times, the student and professor plan together, but the professor is absent from the actual event.

For example, Collette Brown, '13, is part of the Criminal and Juvenile Justice Project, taught by Professors Randolph Stone and Herschella Conyers. This fall, she traveled to Menard Correctional Center in southern Illinois to interview two clients who had been sentenced to life for murders they committed as juveniles. The clinic is actively working to fight the practice of sentencing juveniles to life without parole through both litigation and policy avenues.

Brown did the interviews with fellow clinic student Soo Park, '13, Clinic Social Worker Michelle Geller, and two social work students. Before the trip, they had an extensive meeting with Stone about what they were trying to accomplish and what information they needed to obtain.

"The thing about Randolph is, he really assures us that we have the knowledge we need," Brown said. "We're law students, and we're here for a reason, and we can do it. He really encouraged us to work off the client."

Stone said he tells his students to "spend as much time as you did planning a task reflecting about it. Where did you achieve the results you wanted? Where did you fail?" That kind of constant reflection will serve them well in practice someday, Stone said.

The clients in the Criminal and Juvenile Justice Project are poor children and young adults accused of delinquency and crime. As a sister project, Stone is working to develop a new clinic focusing on postincarceration reentry. It was inspired by all the "collateral consequences" the clinic sees as former offenders try to reenter society. They have lingering legal issues, problems with housing and employment, and other challenges.

The new clinic was born because the clinical professors encourage the students to think past the case at hand.

"We want them to think about, why is the client here in the first place? Are there things we as lawyers can do to prevent them from coming back?" Stone said. That might mean counseling the client as he or she finds social services, or filing petitions to seal or expunge records.

Of course, Stone said, he also talks to the students about how much is too much.

"We talk about these issues—how much passion do you bring to the case? How close do you get to the clients?"



*Professor Jeff Leslie, third from left, meets with housing clinic students in the Karsten Library, on the first floor of the Kane Center, home to the Mandel Legal Aid Clinic.*



When do you know you're crossing the line and getting emotionally involved?"

Sometimes, the clinical teacher's job is to push students out of their comfort zones. Professor Mark Heyrman runs the Mental Health Project. A few years ago, he identified a problem: the Sex Offender Registration Act, which requires sex offenders register once a year, and once a week if they lack a fixed address, is very difficult for the very poor, homeless, and mentally ill to comply with. Public defenders complained that these men were being arrested time and time again for failing to register.

Heyrman sat down with a student and said, "Let's go talk to some of these people—is there anything we can do for them?" His students are often understandably uneasy about working with sex offenders, Heyrman said, but they learn that this population needs help too. He and the student started by meeting with a man in a state mental hospital. Heyrman then pushed the student for a legal argument that would remedy this problem. It couldn't be that the law is unconstitutional, because the courts say it's not.

The student came up with this idea: the registration law violates the Americans with Disabilities Act because it is impossible for the mentally ill to comply with it. The clinic sued the state two years ago, and the case is still pending.

Heyrman is the longest-serving clinical teacher, having started in 1978. His story and motivation are typical of the clinical professors: he worked in a service field (in his case, mental health), and wanted to teach younger lawyers how to do that work as well.

"I'm interested in connecting what students learn in the rest of the Law School curriculum to how the law is practiced," he said. "I'm interested in trying to improve the quality of legal practice."

Park, the student who did the prison interviews with Brown, started in Stone's clinic in June. The relationship with clinical professors is unique, she said.

"They are definitely teaching figures, but they're also mentors to a large degree," she said. "I don't want to say that it's informal per se, but you do get to know them on a personal level. The kind of work we do is so personal."

When it comes down to it, clinical teaching is about showing students how to approach tasks for the very first time, Heyrman said.

"Because, if you're lucky, you'll get to do that throughout your legal career," he said.

And Chicago Law students tend to be lucky, and good, he added.

"Our graduates are smart. They tend to gravitate to the top of the practice, where they always get to do new things." ▀



Professor Elizabeth Kregor, right, and her students from the Institute for Justice Clinic on Entrepreneurship meet with a client at Shawanimals, a toymaker.

# WHAT'S A "CLICKER"? TEACHING WITH NEW TECHNOLOGY

By Meredith Heagney



**T**imes change, and so do the tools of teaching. Many Chicago alumni remember their Law School days and think of filling loose-leaf pages with hurried scribbles, in a desperate effort to get down what the professor scrawled across the chalkboard. Answering a question meant raising your hand or, conversely, the dreaded cold call. Commenting on another student's work meant passing around a hard-copy draft, and not understanding a lecture the first time around was a potentially dangerous problem.

Today's students live in a much different world, one in which professors use technology to help them teach, challenge, and assess students. Rest assured: the cold call is alive and well. But professors also have other tools for checking student knowledge, such as handheld clickers that poll the whole class on an answer instead of just one or two people. Some faculty still write by hand on the board, but many have moved to presentation software such as PowerPoint, often powered from their iPad or another tablet. Students take notes on their laptops and, in some classes, post their homework responses on a blog so they can comment on each other's work. At least one professor puts his lectures on YouTube for students to review later. Several professors are active on Twitter, which can be a teaching tool in a different way; it tells students

what their professors are reading and thinking about, which can often help understanding in class.

Elizabeth O'Connor Chandler, Director of the Center for Teaching and Learning at the University, applauds professors who use more advanced technologies, such as clickers, which remain relatively rare on campus.

"Very few people take advantage of technology because it takes a lot of set-up time and reconfiguring of your course," she said. But the number is growing as educators realize the benefits. When used thoughtfully, technology can both deepen learning and make it more efficient, Chandler said. The law professors who have embraced new methods are "demonstrating a real commitment to student learning and improving teaching," she said.

Chandler is especially impressed by "clickers," which are handheld devices used by teachers to poll classes en masse with multiple-choice questions. Professors Saul Levmore, Lee Fennell, and Eduardo Peñalver use a brand called the i>clicker in class. Several brands of clickers are on the market, and the technology is becoming increasingly popular for every level of education; the *New York Times* reports that just two of the many companies that make clickers have sold nearly nine million units in under a decade. The i>clicker brand was invented by four physicists at the



University of Illinois and is now owned by Macmillan in New York. The students' device costs about \$40 each.

The clickers give a professor instant, easy feedback on where the class is, in terms of understanding. "That's one of the most important things in teaching, diagnosing where the misconceptions are in class," Chandler said. "The useful thing from a student's perspective is that it offers them an opportunity to recognize differences in thinking within the class and to engage other students immediately to discuss those differences. This process helps everyone in the class to clarify misconceptions and to arrive at a point of relative agreement on course material."

At the Law School, the seemingly straightforward tool—how hard can multiple-choice be?—can be used in both concrete and abstract questions.

Levmore, who likes to keep people on their toes, asks questions like this in his Torts class for 1Ls, via clicker:

On average, which rule does a negligent defendant prefer when it comes time for a court to hear evidence about plaintiff's damages?

- A. Take facts into account as known at the time the tortfeasor misbehaved
  - B. Take facts into account as known at the time complaint was filed
  - C. Take all facts into account up to the time of trial
  - D. Any of the above will do, but law seems to choose (which one is the rule?) based on its compensation goal
  - E. Same as D, but based on an apparent goal of controlling litigation costs
- (There are reasonable arguments for both D and E, by the way.)

Levmore and his colleagues who use clickers say their teaching benefits by being able to involve every student in the class. They find out whether the class as a whole is grasping the concepts taught and if they can move on to the next thing. They often raise more questions and encourage more conversations: "I see most of you said A, but 35 percent of you said B. Any of you want to explain why you did that?" Sometimes, a lively discussion or debate will ensue. It's also anonymous; students can answer honestly without worrying about looking silly.

"The Socratic method is not what it used to be," Levmore said, because this generation of students is more self-conscious and sensitive to criticism. To a devotee of the method, like him, that's not exactly good news. But of

course, calling on students one at a time has its limits too. Sometimes, if he's questioning one student, he gets the sense others are just typing down what he says mindlessly, without really thinking. "The i>clicker gives somewhat of an opportunity to be Socratic with everyone at once," he said.

Levmore limits their use. He doesn't use them in every class, and when he does, only for 10–20 minutes. He usually has the students complete a worksheet before class and then plug in their answers via clicker. "I like the feedback. I find my questions can be harder afterward," he said. "Class can go much quicker—I'm not pulling teeth."

Fennell also used them when she taught Torts in the fall. She tends to base her clicker questions on a hypothetical situation or a real case that the students have not yet encountered. She asks them to choose how a court would rule in each case. After everyone has committed to an answer, she asks a few people to explain why they chose the way they did.

"It engages them a little bit more. It helps make the class a little more interactive and immediate," she said. Fennell tries to use them at least once every class session. Sometimes it's for simple polling questions, such as, "Are you OK to move on?" or "Have you been taught the Coase theorem before?"



A 1L student in Levmore's Torts class with his clicker.

The 1Ls who use the clickers agree that it's nice to be anonymous when you're wrong, but say the clickers' benefits don't end there. "I love it as a knowledge test," said Erica Jaffe, '15. Because each class only has one test or paper, and it's at the end, "you never know if your knowledge is quite where it needs to be."

Jaffe acknowledges that when she first heard she had to buy the clicker, she was a little miffed, thinking, "I didn't come to law school to do multiple choice." But she soon saw the questions can be very complex, abstract, and thought-provoking, she said.

Becca Rickett, '15, said the clickers change the way the students behave too. When the professor is cold-calling, students who aren't cold-called try not to raise their hands because they don't want to appear to be showing up the student who might not be giving a stellar answer. With the

*“The i>clicker gives an opportunity to be Socratic with everyone at once.”*

clickers, hands are free to shoot up for the subsequent discussion because there's no one they're stepping over, she said.

The clickers are, of course, not the only tech tools embraced by professors. Professor Randy Picker uses a whole slew of methods that enhance his classroom teaching, starting with a blog for his Technology Policy seminar. Picker assigns readings to students, and they write blog posts in response. In class, Picker talks about both the readings and the student posts, and students are encouraged to comment on each other's work. A recent student post focused on the limitations of the “safe harbor provisions” of the Digital Millennium Copyright Act when it comes to social networks

or search engines that aren't housed on common servers but rather in the grid of its members' computers. The post was written in response to a section of *Hollywood's Copyright Wars* by Peter Decherney. The student's writing, along with other posts from the week, was used as a jumping-off point for a classroom discussion, Picker said.

“The blog creates a smooth functioning for my seminar that I don't think existed beforehand,” he said. “It facilitates exchanges of ideas between students.”

For his Antitrust class, Picker posts all his course materials online, where anyone can see them at: <http://picker.uchicago.edu/antitrust/Syllabus.htm>. He also makes YouTube videos of his PowerPoint slides, for which he provides a voiceover explanation. He purposely posts these in a public medium, he said. He's been somewhat inspired by the “MOOC” movement, which stands for massive open online course, wherein universities open their courses to anyone with an Internet connection.

“There's no reason for teaching materials not to be open and available,” said Picker, who gets emails from students and professors in other countries and the occasional government regulator. It takes a lot of extra time to record voiceovers for his slides, but it's worth it if it helps students,



The 1Ls in Levmore's winter quarter Torts class took Torts from Lee Fennell during the fall quarter and used clickers for both.



he said. He saw a big spike in views right around exam time.

Chandler, from the Center for Teaching and Learning, said there's no reason to "limit people's access to materials that help them learn. Technology gives us an opportunity to repeat, repeat, repeat. Isn't that what a good learner does, anyway?"

Eduardo Peñalver, a new Professor of Law who teaches both Property and Land Use, is another high-tech academic. He uses the clickers, which he also used in his last position at Cornell Law School. But he also uses video clips and Google Maps.

For example: When teaching students about a case that involves a coastal neighborhood and a dispute over whether to dredge a channel to a marina, he used Google Maps to show an aerial view. This perspective revealed something interesting about the case, between the homeowners' association that wanted to dredge the channel and the residents who didn't. It turned out that only about half the residents had docks behind their houses; that is, only about half of them would make any use of that channel, even though all had to help pay for it.

"It helps bring home the nature of the dispute, because visualizing it helps you understand it," he said. Peñalver also uses video clips, sometimes of news reports and sometimes of movie scenes that drive home a specific point.

An irreverent but memorable example is when he has shown a clip from *Drag Me to Hell*, a 2009 horror-comedy about a gypsy curse. He uses a clip where the cursed character tries to give her curse back to the old woman who cursed her in the first place, who is now dead.

Peñalver uses this clip to illustrate the law of gifts and the necessary elements of a gift: intent, delivery, and acceptance. That is, a dead person can't accept a gift.

Of course, technology has its limits. Computers crash, iPads freeze, and clickers run out of batteries. That's why Fennell said she takes precautions. "I never go into class without a printed set of hard-copy notes that I can use if the technology goes down. I try to always be prepared for it to go wrong," she said.

As much as a techie as Picker is, he said there's no need to worry about technology and online education replacing the face-to-face value of attending class. After all, he said, those in-class conversations are much of the point of the exercise of studying the law.

"Technology isn't a substitute," he said. "Law school is not fundamentally about just conveying facts. It's really about a method of inquiry that requires a certain amount of examination and mistakes." ▀



Levmore is still an adherent of the cold-calling approach, but said clickers add to his teaching by helping him gauge student progress.

for his or her services. (35 words)

# LECTURERS BRING SPECIAL EXPERTISE TO LAW SCHOOL TEACHING

By Meredith Heagney

**T**o borrow from the parlance of biology, Lecturers in Law and students have a symbiotic relationship.

The students get real-world knowledge from experts in fields as varied as the practice of law: everything from private equity transactions to Islamic law to the Supreme Court to human trafficking. Students also get to rub shoulders with leaders of law, business, and politics; most famously, President Barack Obama was a Lecturer in Law and a Senior Lecturer at the Law School for 12 years.

The lecturers get the satisfaction of passing on their knowledge to a new generation of lawyers, and the energy and inspiration that come with educating Chicago Law students.

Long story short: Everybody wins.

"I love it. I wouldn't be doing it otherwise. I enjoy the opportunity to work with very bright and interested law students," said Robert A. Helman, who has been a partner at Mayer Brown since 1967 and a Lecturer in Law for more than five years. He was Chairman of his firm from 1984 to 1998. Spring Quarter he will teach Developing Law Practice Skills through the Study of National Security Issues.

"There are times when the students are more stimulating than clients," he joked. "They're interested and lively."

Helman is one of 20–25 lecturers who teach each quarter at the Law School, in the format of weekly two-hour seminars. Once they are here, they tend to stick around: about 15 percent of the Law School's master list of lecturers has been here 10 or more years.

Professor David Zarfes, Associate Dean for Corporate and Legal Affairs and Schwartz Lecturer in Law, said the lecturers enrich the Law School because they "fill in the holes of the Swiss cheese," so to speak, in both style and substance.

"They expand the range of offerings we as a law school can offer. No one faculty can cover everything."

Zarfes looks for lecturers who have both proven expertise and strong teaching skills. If they've taught before, he reviews their evaluations. If they haven't, he must rely on instinct about what makes a good teacher.

Many of the lecturers see it as a dream come true, he said.

*above: Lecturer in Law Elizabeth Duquette, an experienced teacher who has lectured as far away as Germany, teaches a writing class for the Law School's LLMs.*



"They're usually quite flattered. Sometimes they say they've always thought about it and never got around to it," Zarfes said. "In some cases, they've said it's the highlight of their week."

Lecturer in Law Tom Cole, '75, Chair of the Executive Committee at Sidley Austin and a University Trustee since 2001, loved teaching so much that he has decided to come back to it after 15 years. Cole taught a corporate governance seminar from 1993 to 1998, but stopped when he became Chair because of the huge demands of that position. In April, he is stepping down as Chair, but he will continue to be partner and maintain an active practice. He'll finally have time to teach his seminar again, and he's not wasting any time; it's scheduled for the spring quarter.

"I'm very excited about it. I enjoyed it when I did it. I'm sorry that other commitments kept me from being able to continue," he said. "The students are so terrific and stimulating. And, when you teach something, you actually learn it better yourself. It forces you to think more deeply."

For obvious reasons, Cole said, his class will be much different in 2013 than it was when he last taught it in 1998. Back then, there was no Enron scandal, no Sarbanes-Oxley Act, and no Great Recession, among many other changes, including developments in shareholder activism and duties of board members.



Judge Virginia Kendall teaches *Child Exploitation and Human Trafficking*. Educating law students on these topics is one of her personal passions.

"That's part of the fun of teaching. It's a dynamic subject," he said. "The whole point of a great legal education is not only that it teaches you some law, but also teaches you to be responsive and reactive to changes not only in the law but in markets and policy and all the rest."

Lecturer in Law Richard Sandor, Chairman and Chief

Executive Officer of Environmental Financial Products LLC, has taught at the college level intermittently for 50 years. It keeps him on his toes, he said, and forces him to "think like a 23-year-old."

"At the University of Chicago, the students are terrifically bright," said Sandor, who last taught *The Law and Economics of Natural Resource Markets* in Spring 2011. "I like it because it forces me to be very prepared, and you have to be very coherent in a short period of time. It challenges your own thinking."

His wife has teased him when he prepares late into the night for a class, he said.

*"The whole point of a great legal education is not only that it teaches you some law, but also teaches you to be responsive and reactive to changes not only in the law but in markets and policy."*

"She says, 'You've been doing this for 50 years, you ought to be relaxed about it.' But no, you can't be," he said, because the students and the material continue to challenge in new ways.

"That's one of the peripheral benefits: As a teacher, you're really a student and a teacher."

One lecturer who isn't too many years from his own time as a student is Sean Z. Kramer, '10, believed to be the youngest Lecturer in Law. He helps Zarfes run the Corporate Lab, a transactional clinic that allows students to work closely with legal teams at major companies. He remembers taking classes from lecturers himself.

"They were fun, and they were practical," he said. "They were more of a conversation."

Lecturer in Law Elizabeth Duquette said that conversational quality is what makes teaching so much fun. She started a new class for LL.M.s this quarter, *Writing and Research in the U.S. Legal System*. Previously, she has taught European Union law, evidence, and American trial law at Chicago and other local and international law schools, as close as Northwestern Law and as far as Germany.

"I find students are very energetic, and they're in that phase of their life when they're learning as much as they can every day, and that's fun to be around," she said.

She also feels great satisfaction at filling an important need, which is teaching future lawyers how to write, she said.

"I think most law students really need to improve their writing beyond the first-year writing class they all take," she said. Throughout the course, she sees a huge improvement. "I think they really get it. And what's fun is that throughout the course they'll bring me examples of really lousy legal writing they find. I think it stimulates them to notice good writing and recognize bad writing."

Duquette designed the new LLM class from scratch, keeping in mind that English is the second, third, or even fourth language for these particular students. Her goal was to distill the essential concepts of American legal writing and teach the students to use them in a way that is effective and natural using American English.

She feels like she contributes a perspective beyond academic life, she said. She worked in private practice in London before deciding, after she had children, to devote her working hours to teaching.

"Every year, I'll get students who ask me for career advice, and how to balance work and family life. I think lecturers provide a different perspective than the academics."

Many lecturers, including Judge Virginia Kendall, of the U.S. District Court for the Northern District of Illinois, and

Lecturer in Law Cynthia Shawamreh, '88, are motivated by their love of their respective topics. Kendall, who has taught at her alma mater, Loyola University School of Law, for 20 years, and Northwestern Law for eight, started at Chicago Law this year. She teaches Child Exploitation and Human Trafficking. She said she commends the Law School for having such a class because they are rare.

"I am passionate about teaching this area of law to young minds, because I see their excitement in wanting to make a difference in this area of law and continue to improve it," Kendall said. "And when it comes to protecting the rights of women and children, this is an area of law that can always be improved."

Similarly, Shawamreh feels strongly about teaching Islamic law, Islamic finance, and Middle Eastern politics, which she's been doing since 2008 at the Law School. She's also Senior Counsel for the City of Chicago Department of Law, Finance and Economic Development Division, where she specializes in multilayered financing transactions designed to provide affordable housing and economic incentives to stimulate job creation.

"This is my intellectual passion, studying about the Middle East," she said. She especially enjoys the classroom discussions between students who are lifelong devout Muslims and



*Kendall, who has taught at Loyola University School of Law and Northwestern Law, squeezes in two hours a week away from her work as a U.S. District Judge for the Northern District of Illinois to teach at Chicago Law.*



those who know little to nothing about the faith.

Does this lead to political debates? “Oh, sure,” Shawamreh said. “I intentionally structure them.”

For example, she said, around the time the Arab Spring was making headlines, she divided the class into three groups. The first two groups were to role-play as lawyers, advising the president on policy. The first group argued for promoting democracy in the Middle East, while the second group argued that the United States should not invest the time and resources. The third group judged the winner.

Helman, who teaches on law and national security, also encourages a lot of student discussion. At the beginning of each quarter, he has students break up into teams of two to four and select from a list of problems. Each group will present on those problems, which are posed as questions:

*Should we continue to use, and under what if any limits, drone warfare and assassination in Afghanistan, Pakistan, Yemen, and elsewhere?*

*What is the future defense of the United States against cyber warfare?*

*Should alleged terrorists be tried in civil courts or before military tribunals?*

“I’m trying to teach them how to develop the skills needed for successful law practice, which means learning

to analyze a problem, do research on it, and discuss it persuasively in English sentences, standing up straight and prepared to answer questions,” Helman said.

Lecturer in Law Jack S. Levin, a partner at Kirkland and Ellis, has taught Structuring Venture Capital and Entrepreneurial Transactions every spring since 1988. The course may have the same title each year, but it’s never a repeat, he said.

“The world keeps changing, so it could be the same topics, but you might be saying completely different things,” he said. A typical class is about 60 percent law students and 40 percent business students from Chicago Booth. The students go through a series of seven or eight transactions that build in complexity, from a new business start-up to a growth equity investment to a leveraged buyout to a turnaround financing for a distressed company, and so forth. He teaches the same course every winter at Harvard Law and has written a widely used textbook on venture capital and private equity.

Levin’s satisfaction comes from educating the next generation of lawyers, he said.

“Once I know something and can do something, I want to teach others how to do it. I want others to benefit,” he said. “I want to educate those who come after me.” ▀



Duquette designed the new writing class for LLMs with the knowledge that English isn’t many of these students’ first language.

## Leiter's Book Questions Religion's Preferential Legal Treatment

The Western democratic practice to single out religious liberty for special treatment under the law is not in sync with the world we live in today, argues University of Chicago Law School professor Brian Leiter in his new book, *Why Tolerate Religion?*

All people, both religious and nonreligious, have certain kinds of beliefs about things they feel they absolutely must do, something he calls “claims of conscience.” In the book, Leiter, the Karl N. Llewellyn Professor of Jurisprudence, explores whether there are good reasons behind the tendency to grant legal exemptions to religious claims of conscience while largely rejecting nonreligious ones. “The current status quo is predicated on a fundamental inequality,” said Leiter, using as an example the differing treatment two boys caught wearing a dagger at school would receive if one carried it as part of his Sikh religion and the other as a family tradition.

“Namely, your claim of conscience counts if it is based in religion. My claim of conscience doesn’t count if it is not based in religion. That, it seems to me, is a pernicious and indefensible inequality in the existing legal regime.”

### HISTORICAL ROOTS

Leiter first became interested in the preferential treatment religion receives under the law as a professor at the University of Texas–Austin. He began to consider the place of religion and toleration in society after noting how conservative Christians in the state were increasingly trying to influence politics and public education.

The origins of religious toleration can be traced back hundreds of years to the European wars of religion, a time when people were killed over religious differences, says Leiter. The wars’ ends gave rise to greater acceptance of others’ religions, an important achievement of Western democracies.

However, the West’s preferential treatment for religious toleration over that of other beliefs is not in step with changing times, maintains Leiter.

*In leading philosophical literature, Leiter found compelling moral arguments for the important role toleration plays in general in a society.*

“While we understand the historical reasons why our constitution singled out religion and religious liberty 200-plus years ago, in the world we live in today, you don’t have to be religious in order to have a conscience,” he said.

In leading philosophical literature, Leiter found compelling moral arguments for the important role toleration plays in general in a society. He explores the arguments of John Rawls, who defends liberty of conscience as a basic right, and the utilitarian arguments of John Stuart Mills, who underlines the importance of toleration of differing views to society’s search for truth and knowledge.

“Both schools of thought reach the same conclusion: that liberty of conscience is sufficiently important to individuals, that a just and decent society is going to protect a sphere for the liberty of conscience,” said Leiter.



Brian Leiter



Conversely, Leiter could not find an equally forceful argument as to why religious conscience has been treated as more deserving of protection. What makes religious beliefs distinctive from other claims of conscience are two things: some beliefs in every religion are not evidence based and some beliefs provide followers with “existential consolation,” helping them cope with suffering and death. He argues that neither the Rawlsian nor Millian argument would warrant a special legal status for beliefs with these characteristics over other conscientious beliefs.

#### THE WAY FORWARD

While some might wish there was a way to grant exemptions to all claims of conscience, realistically, Leiter says, this would lead to almost insurmountable practical problems.

“It would be tantamount to legalizing civil disobedience,” said Leiter, explaining that while courts can verify a person’s involvement in a religion and that religion’s particular beliefs, nonreligious claims would be much more difficult to verify.

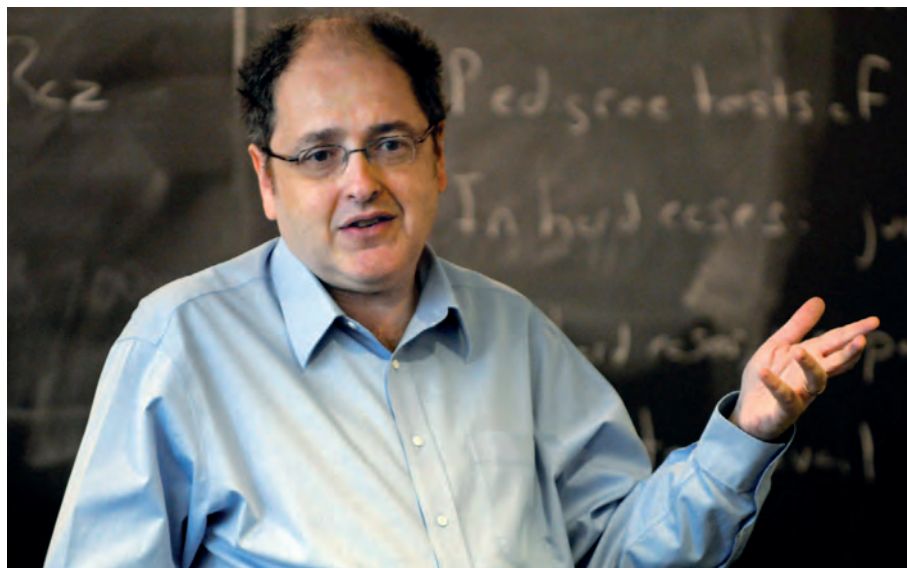
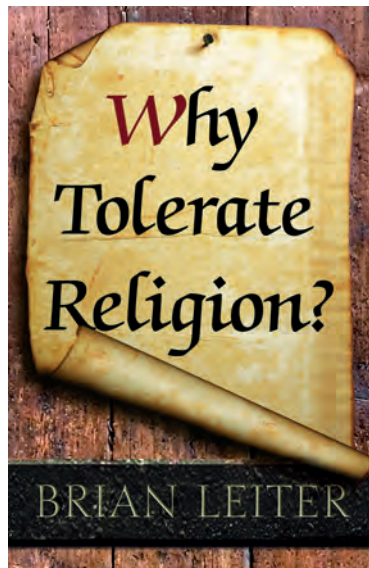
“We don’t have a way to peer into a man’s soul to see if his

claim of conscience is really a legitimate claim of conscience.”

Exemptions from neutral laws also often defeats society’s promotion of the general welfare. Leiter gives the example of mandatory vaccination laws, where the widespread granting of religious exemptions has led to the return of previously rare diseases, such as whooping cough. Given the unfairness of the special treatment given religious liberty, Leiter argues the fairest path forward is to allow no exemptions, religious or otherwise, that challenge laws that promote the public good, unless those exemptions do not shift burdens onto others.

“Doesn’t the state have the right to pass laws that are supposed to promote the general welfare without having to carve out exemptions that basically undermine the promotion of the general welfare?” Leiter asks, although cautioning courts to monitor for laws that have as their real purpose intolerance, such as France’s ban on Islamic headscarves.

“If we start carving out exemptions, we defeat the purposes of those legitimate objectives.” ■



## Books by Alumni Published 2012

### George Anastaplo, '51

*Reflections on Slavery and the Constitution* (Lexington Books)

Anastaplo discusses both how the history of race relations in the United States should be approached and how seemingly hopeless social and political challenges can be usefully considered through the lens of the Constitution, tracing the concept of slavery and law from its earliest beginnings and slavery's fraught legal history in the United States.

### Tom Bator, '86

*Notes from the Has-Been: A Collection of Weekly Soccer Thoughts* (Curtis Brown Digital)

This book collects the weekly emails that Bator—the past president of a local youth soccer club, a soccer player himself, and an experienced youth soccer coach—sent to his town's soccer coaches to provide practical tips, stories, and a philosophy of coaching youth soccer gained from years of experience.

### Donald Bingle, '79

*Net Impact* (Alliteration Ink)

When a mission to bust up an arms exchange in New Zealand goes spectacularly bad, ending with the showy destruction of the Dunedin port facility, Dick Thornby is thrown into a maze of conflict. In the end, Dick can save his partner, save his marriage, save his son, or save the world, but he can't do it all.

### Robert J. Bird, '93

*The Observer* (CreateSpace)

In 2006, Iraq is at the brink of civil war, and Amery Hardenbrook has accepted a 10-month assignment in Baghdad for the *New York Chronicle*. His sources open the door to a perilous secret. As the stakes rise, Hardenbrook must choose between his American life and the duty he has found in Iraq.

### Dale Carpenter, '92

*Flagrant Conduct* (Norton)

*Flagrant Conduct* transforms our understanding of what we thought we knew about *Lawrence v. Texas*, the landmark Supreme Court decision of 2003 that invalidated America's sodomy laws. Drawing on dozens of interviews, Carpenter has taken on the task of extracting the truth about the case, analyzing the claims of virtually every person involved.

### Henry F. Field, '65

*The Bumbling Colossus: The Regulatory State vs. the Citizen; How Good Intentions Fail and the Example of Health Care: A New Progressive's Guide* (CreateSpace)

This book locates the origins of America's present distortions in health care and clarifies the economic fundamentals. It suggests a solution that restores the individual to center place in the decision making and financing of health care through health savings accounts and freed-up insurance markets.

### Steve Fiffer, '76

*Fred Who? Political Insider to Outsider* (with Fred Karger) (Fred Karger)

*Fred Who?* relates what it is like to live in the closet, shares the lessons Karger learned working for Ronald Reagan and George H. W. Bush, and offers stories about life on the political trail and in Hollywood.

### Albert A. Foer, '70

*Private Enforcement of Antitrust Law in the United States* (Edward Elgar) (edited with Randy M. Stutz)

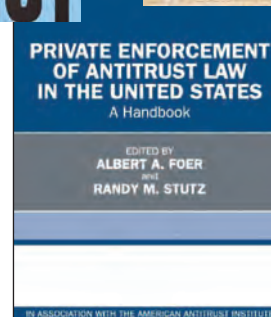
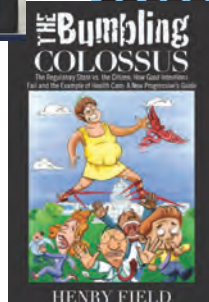
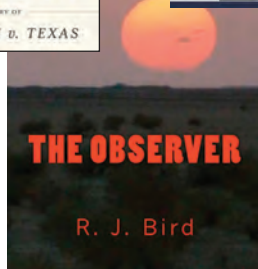
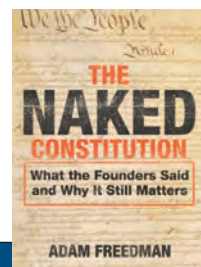
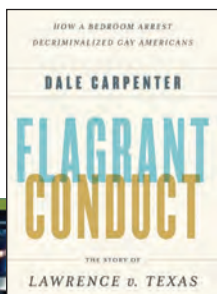
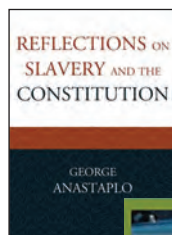
This handbook provides a detailed, step-by-step examination of the private enforcement process.

It is a collection of thoughtful essays that delves deeply into practical and strategic considerations attending the decision making of private practitioners.

### Adam Freedman, '92

*The Naked Constitution: What the Founders Said and Why It Still Matters* (Broadside Books)

*The Naked Constitution* explains the fundamental themes animating America's founding charter: limited government, federalism, separation of powers, and individual liberty. Conservative legal scholar Freedman defends the controversial doctrine of originalism as the only way to restore the Founding Fathers' vision of American liberty.





### Joseph H. Groberg, '70

*From the Muddy River to the Ivory Tower: The Journey of George H. Brimhall* (BYU Studies) (with Mary Jane Woodger)

Groberg and Woodger explore Brimhall's passion for education, which sustained him through humble beginnings as a Utah pioneer to his pivotal role as president of Brigham Young University. The book explores Brimhall's finding the motivating force behind education in the Latter-day Saint doctrine of eternal progress.

### Donald Gross, '79

*The China Fallacy: How the U.S. Can Benefit from China's Rise and Avoid another Cold War* (Bloomsbury)

Former White House and State Department official Donald Gross challenges the conventional wisdom underlying current policy toward China. He shows how the strategy of seeking to contain China makes America less secure and why adopting protectionist measures against China harms U.S. prosperity.

### Ronald Hirsch, '68

*Making Your Way in Life as a Buddhist* (Thepracticalbuddhist.com)

This is a practical guide to making life decisions consistent with the Buddhist path, rather than constantly falling off it because of the pull of our ego.

*Raising a Happy Child* (Thepracticalbuddhist.com)

This book seeks to provide parents with the means to step outside themselves, to be able to experience their child, themselves, and the world around them mostly free of their learned experience and emotions, thus enabling them to provide their child at all times with the nurturing and unconditional love needed to be happy and secure.

*The Self in No Self: Buddhist Heresies and Other Lessons of Buddhist Life* (Thepracticalbuddhist.com)

Many who strive to follow the Buddhist path experience barriers that frustrate their progress. This book breaks out of the dogma of much of Buddhist teaching to remove those barriers, making the path more accessible.

### Linda Hirshman, '69

*Victory: The Triumphant Gay Revolution* (Harper)

Drawing on an abundance of published and archival material and hundreds of in-depth interviews, Hirshman places the gay rights movement within the tradition of American freedom as the third great modern social justice movement, showing how the fight for gay rights has changed the American landscape for all citizens.

### Victor W. Hwang, '96

*The Rainforest: The Secret to Building the Next Silicon Valley* (Regenwald) (with Greg Horowitz)

Hwang and Horowitz propose a new theory to explain the nature of innovation ecosystems: human networks that generate extraordinary creativity and output. They argue—challenging basic assumptions held by economists for over a century—that free-market thinking fails to consider the impact of human nature on the innovation process.

### Tom Jacobs, '87

*What's Behind the Numbers? A Guide to Exposing Financial Chicanery and Avoiding Huge Losses in Your Portfolio* (McGraw-Hill) (with John Del Vecchio)

This book uses a combination of earnings quality analysis, long-side investing, and short-side portfolio risk management to help investors create a long-short portfolio with less volatility and greater returns, while avoiding landmine stocks that can threaten financial security.

### Kristin Kalsem, '87

*In Contempt: Nineteenth-Century Women, Law, and Literature* (Ohio State University Press)

*In Contempt* explores the legal advocacy performed by nineteenth-century women writers, in real-life courtrooms and in the legal forum provided by the novel form. It reexamines the cultural and political roles of the novel in light of "new evidence" that many nineteenth-century novels showed contempt for, rather than policing, the law.

### Larry Kaplan, '75

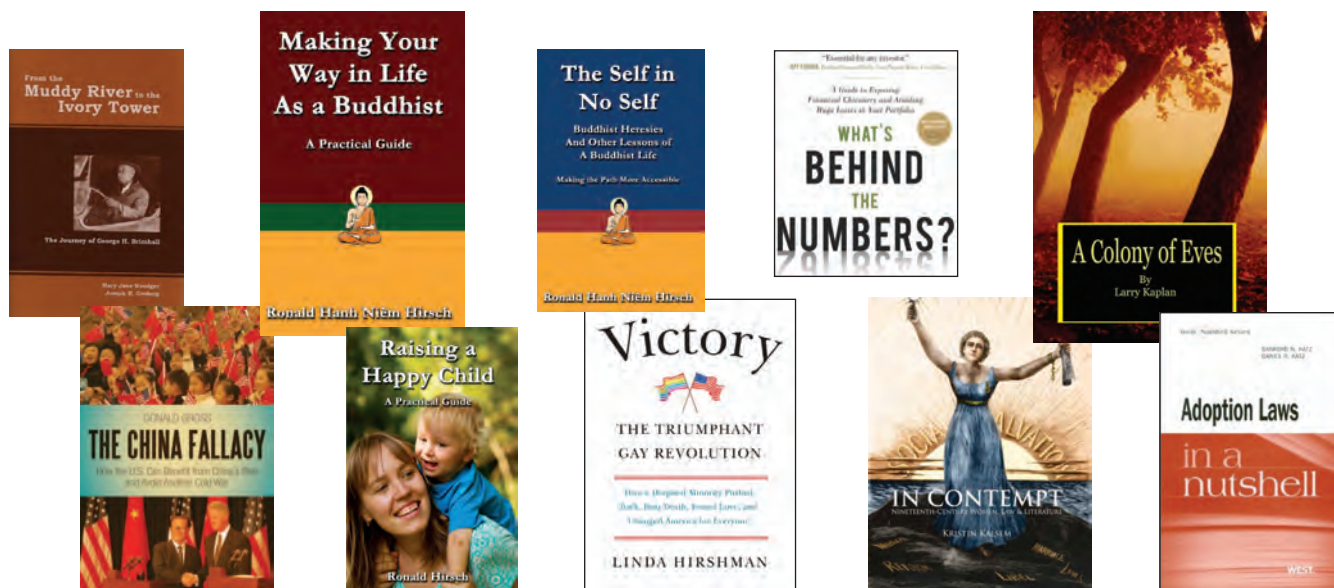
*A Colony of Eves* (Create Space)

The first victims are found in the Amazon rainforest. Their discovery leads to a frightening conclusion. Hidden within our own DNA is a time clock, set to put an end to human existence. Mankind is running out of time. But Oksana Kuznetsky's rare bloodline may possess the antidote to human extinction.

### Sanford N. Katz, '58

*Adoption Laws in a Nutshell* (West) (with Daniel R. Katz)

This book provides an analysis of agency responsibilities toward adoptive parents and children, consents necessary to complete an adoption, father's rights, assisted reproductive technology, and adoption including surrogacy, standards for placement, open adoption, access to adoption records, inheritance rights of all the parties, and intercountry adoption.



## Neil Levy, '66

*The Haiku Murders* (Red Oak Tree Press)

Izzy Liebes, passionate about body surfing and haiku poetry, wound up as a lieutenant in the homicide division of the Honolulu police force. He begins to receive a series of haiku from a serial killer who gives him clues about murders he is about to commit. Liebes and his partner, Hoku, must use those clues to try to prevent the next murder.

*Short Stuff: Flash Fiction, Haiku, and Aphorisms* (Red Oak Tree Press)

While traveling in the South Seas, Levy decided to write one perfect sentence a day. This soon morphed into writing haiku and very short stories, often quite distant from what most people consider reality.

## Judith Weinshall Liberman, '54

*Ice Cream Snow* (Dog Ear)

*Ice Cream Snow* tells the story of two young brothers, Marty and Ben, who discover one night that it is snowing, except that the falling snow consists of colorful balls of ice cream. It is written in rhyming verse, with Liberman's own tissue paper collage illustrations expressing the enchantment of the narrative.

*On Being an Artist: Three Plays and a Libretto* (iUniverse)

The three plays and the libretto in this collection were all written by Liberman when she was in her eighties. All are semiautobiographical and give expression to the insight the author gained through half a century of creating visual art and of writing. Included are black-and-white reproductions of 25 of her artworks.

*Reflections: Poems, Lyrics, and Stories* (iUniverse) (with Laura Liberman)

This anthology contains poems, lyrics, and stories, each written by one member of this mother-daughter team over a period of more than half a century. Some writings are humorous, while others are somber. All come from the authors' hearts.

## Robert M. Lichtman, '55

*The Supreme Court and McCarthy-Era Repression: One Hundred Decisions* (University of Illinois Press)

In this volume, Lichtman provides a history of the U.S. Supreme Court's decisions in "Communist" cases during the McCarthy era. The book describes every Communist-related decision of the era, placing them in the context of political events and revealing the range and intrusiveness of McCarthy-era repression.

## Robert J. Martineau, '59

*How to Draft Statutes and Rules in Plain English* (Matthew Bender) (with Robert J. Martineau, Jr.)

This book begins with a history of the plain English movement, then describes the process by which rules and statutes are drafted and passed at the federal, state, and local levels. The authors then present specific rules of good drafting, with a variety of examples.

## Jeffrey A. Parness, '74

*Illinois Civil Procedure, 2012-13 Edition* (Lexis-Nexis)

Parness interweaves expert analysis of topics and practice guidance to aid practitioners with a case from pretrial through appellate review. The book offers targeted practical guidance for the Illinois litigator working in the many facets of civil procedure.

## Zheng (Cathy) Qi, LL.M. '11

*Investment Regulations and Policies with Selected Annotations* (China Legal Publishing House)

This book comprehensively provides information on China's current laws, legislation, regulations, judicial interpretations, and policy documents (including parts of regional documents) in the area of foreign business investments to serve as a reference for specialists such as foreign business investment lawyers, corporate counsels, judges, arbitrators, and teachers.

## Peter B. Rutledge, '96

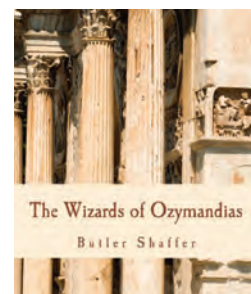
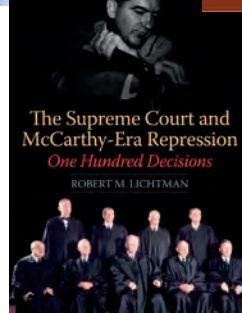
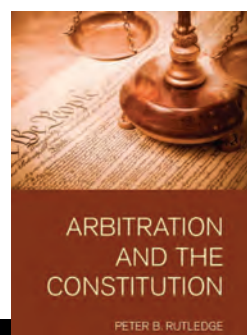
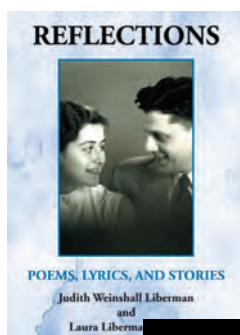
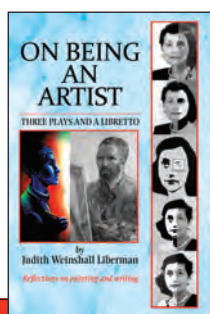
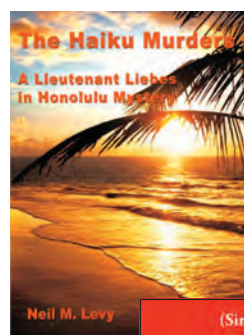
*Arbitration and the Constitution* (Cambridge University Press)

One of the first attempts to synthesize the fields of arbitration law and constitutional law, this book draws on Rutledge's extensive experience as a scholar in arbitration law. It offers insights into how arbitration law implicates issues such as separation of powers, federalism, and individual liberties.

## Butler Shaffer, '61

*The Wizards of Ozymandias: Reflections on the Decline and Fall* (The Ludwig von Mises Institute)

This book assembles 51 of Shaffer's essays observing the dissolution of Western culture and civilization. Shaffer is optimistic that this collapse could be the turning point for a social transformation toward a society that embraces individual liberty and private property and that is free from collectivism and institutionalization.





### Ilya Shapiro, '03

*Cato Supreme Court Review 2011–2012* (Cato Institute) (editor)

Now in its 11th year, the *Review* is published annually on Constitution Day and brings together leading legal scholars and Supreme Court advocates to analyze the most important cases of the year. It is the first scholarly review to appear after the term's end.

### Linda Simon, '95

*Miller Beach* (Arcadia) (with Jane Ammeson)

Miller Beach, known for its eclectic charm, became a popular tourist destination in the early 1900s thanks to its windswept sand dunes and Lake Michigan shoreline. It is now a part of Gary, Indiana, and the draw of the beach remains a timeless part of its past, present, and future.

### Darin Snyder, '88

*Keeping Secrets: A Practical Introduction to Trade Secret Law and Strategy* (Oxford University Press) (with David S. Almeling)

This book examines the audacious schemes of trade secret thieves by presenting dozens of case studies and the lessons to learn from them. It also offers best practices for protecting trade secrets from theft, investigating a suspected breach, and enforcing a trade secret in court and other forums.

### Herbert J. Stern, '61

*Diary of a DA: The True Story of a Prosecutor Who Took on the Mob, Fought Corruption, and Won* (Skyhorse)

Stern's highly charged account of his outright war against powerful state government officials and the Mafia takes the reader deep inside the mechanisms of law and order during a time when assassinations came fast and loose, cities were burning in race riots, and racketeering and graft were rampant in the Garden State.

### Don Thompson, '66

*The Dead Man Says* (Amazon Digital Services)

This is a satirical murder mystery set in a large Chicago law firm. One of the top partners is murdered in the middle of the night and the managing partner is told by the other partners to find out who did it and put the bad PR to rest. Along the way we tour Chicago and see how its upper crust works—or doesn't.

### Roger H. Transgrud, '75

*Modern Complex Litigation*, 2d ed. (Foundation Press) (with Jay H. Tidmarsh)

This casebook examines issues regarding the structure of the lawsuit and the aggregation of claims such as joinder, preclusion, MDL transfer, class actions, and jurisdiction and then addresses issues that arise during pretrial, trial, and remedial phases of a complex case.

### Guang Ming Whitley, '04

*Lockdown: An American Girl's Guide to Chinese Postpartum Recovery* (CreateSpace)

This is the first and only comprehensive English language guide to the ancient tradition of "zuo yuezi" (Chinese postpartum recovery) for the American Girl. *Lockdown* provides simple recipes, basic exercises, and the Lockdown Lifestyle and Diet Commandments—all with American Girl Alternatives that will help the American Girl achieve Lockdown.

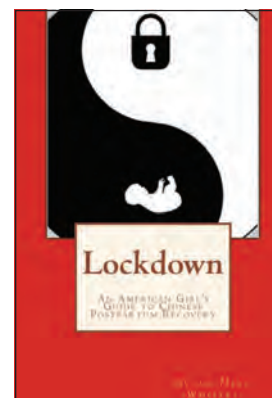
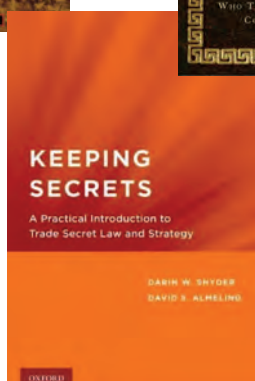
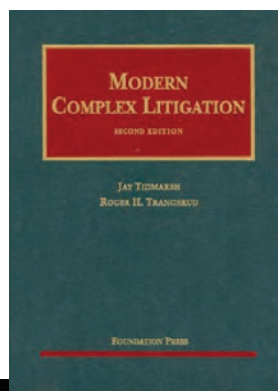
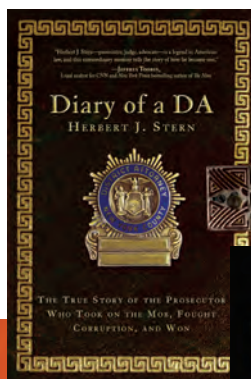
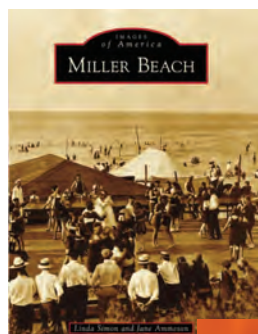
*Peace Out* (CreateSpace)

*Peace Out* is a piece of speculative fiction about taking control of your life and taking control of your death.

### Neil Wilkof, '80

*Overlapping Intellectual Property Rights* (Oxford University Press) (edited with Shamnad Basheer)

Intellectual property rights are mostly studied in isolation, yet in practice each of the legal categories created to protect IP rights will usually provide only partial legal coverage. Providing commentary on the nature of overlapping IP rights and their place in practice, this book changes the way in which IP is understood.



# Development **News**

Dear University of Chicago Alumni:

A year has passed since I first wrote to you all for the first time. I have learned so much about our great school in the interim. Many of you have shared your personal stories about favorite professors, time spent with friends both in and out of class, and the experiences that shaped you into the remarkable alumni family you are today. For all of your excitement, commitment, and perspective, I am extremely grateful.

You all have also been turning out in ever-greater numbers to meet with Dean Schill and my staff as we have traveled the country. Many of you came out this past fall for the traditional First Mondays Luncheon series in New York, Washington, DC, Chicago, San Francisco, and Los Angeles. Or perhaps you joined us in person for one of our Young Alumni Wine Messes, Women's Mentoring events, 1L Speed Practice Interviewing sessions, or joint Law/Booth Wine Messes. We would encourage you to continue to join us at these and our future events—including one of the upcoming Young Alumni-Admitted Student Wine Messes, the Loop Luncheon, or the ever-popular Reunion Weekend 2013. We want to provide meaningful ways for you all to connect with each other and with the school. So please join us at an event and share your thoughts.



On the campaign and fundraising front, we are in the home stretch of a very exciting and productive Fiscal Year 2013. Coming off of two consecutive years of record- or near-record-setting activity, one may reasonably have expected a slight dip or slide backward. I am pleased to report that, thanks to your enduring and enthusiastic support, we should continue to excel in this regard. Your commitment to academic excellence here is helping us to track toward a record-setting year both in our Annual Fund

and as a prelude to our campaign launch in 2014.

Many of you have seen already, or will read in these pages, about the generous leadership commitments of alumni and friends such as Debbie Cafaro, Ellen and Richard Sandor, and David Greenbaum. We are extremely fortunate to have their leadership and philanthropic commitment in support of financial aid, faculty scholarship, and research. The impact of their gifts will immeasurably improve the lives of our students and our scholarly community.

Our Annual Fund has been doing very well so far as we attempt to set yet another record year with a goal of \$4.2 million. The recently introduced Dean's Circle continues to gather momentum, and the Law Firm Challenge is set to kick into overdrive as we push toward the June 30 fiscal year end.

Yet, realizing our goal of \$4.2 million will be extremely difficult without broader engagement with our alumni and friends. Our strong results in the Annual Fund over the last several years have come from a smaller number of donors. We are extremely fortunate and grateful that those who do give have been increasingly generous to Chicago Law. But we need to do a better job of growing the number of Annual Fund supporters.

To address this opportunity for engagement, we are inaugurating the Dean's Circle Challenge this year. Thanks to the generous gift of one of our closest and most enduring Annual Fund donors, Mark Mamolen, '77, we will be able to double the impact of a gift from anyone who newly joins the Dean's Circle with a gift to the Annual Fund.

This means that if you are at a firm participating in our Law Firm Challenge, or if your class is in a reunion year, or even if you just want to see your regular (or not so regular) Annual Fund support go just that much further in supporting the most critical and timely needs of Chicago Law, now is the time to make that gift! Additional details about the Dean's Circle Challenge will be available on our website and in the postal and electronic outreach we will be doing between now and June 30.

As always, we are interested in hearing from you about any of the topics I address above or just to share news or your perspective on other Chicago Law matters. Please do not hesitate to contact me or my staff, and we will look forward to seeing you at an event or on campus.

Warmest Regards,

A handwritten signature in blue ink, appearing to read "Eric Lundstedt". The signature is fluid and cursive, written over a light blue grid background.

Eric Lundstedt  
Associate Dean



## Cafaro Scholarships Offer Help to Students from Modest Backgrounds

Through a fund created by a gift from Debra Cafaro, '82, twenty-two students will receive full-tuition three-year scholarships to the Law School over the next nine years. The first four Cafaro Scholars will enter the Law School this fall, and there will be three more in each of the next six classes.

In addition to recognizing outstanding academic



Debra Cafaro

achievement and potential, the Cafaro Scholarships will be awarded to students of limited financial means, a qualification that reflects Cafaro's own background. She grew up in Pittsburgh, the daughter of first-generation Americans, and was the first in her family to attend college. Her father was a mailman; her mother, a

Lebanese-American who spoke Arabic, was a homemaker. "My father always said that the proudest day of his life was the day that he wrote the first check for me to be able to go to college," she recalls. "I'm so pleased to be able to write a somewhat larger check now that will make it possible for others to have the incredible opportunity of attending the Law School."

Cafaro has made the most of her opportunities. After a Fourth Circuit clerkship followed by 13 years of law practice, she moved into a business role as president of a small publicly-traded real estate investment trust (REIT). In 1999, she became CEO of a struggling Kentucky-based healthcare REIT, Ventas.

One of Cafaro's mentors, Douglas Crocker II, recommended her for the CEO position at Ventas, which he described to her as "mission impossible." When she took charge, Ventas's properties had only one tenant—and that tenant was about to file for bankruptcy protection. She brought about a jaw-dropping turnaround. Between 2000 and 2009, the company's stock outperformed the stocks of all other publicly-traded financial corporations (a category that includes banks, insurance companies, and REITs), providing a return to shareholders of more than 2,000 percent. Ventas's current market capitalization, more than 20 billion dollars, is 100 times what it was in Cafaro's first year as CEO.

Ventas has completed eight big acquisitions, including 14 billion dollars in investments since 2010.

She has grown Ventas through skill, hard work, uncommon acumen, and gutsy determination. In mid-2007, she perceived warning signs in the financial system and positioned Ventas to survive a possible downturn. "Some people thought we were crazy to hunker down when the world was still so frothy," she recalls, "but I insisted we were facing a very risky environment." When the financial crisis hit a year later, Ventas stayed strong while many other REITs nearly collapsed. "I have always liked what the Roman poet Terence said," she remarks. "Fortune favors the brave."

For her successes, Cafaro has earned accolades that, if placed end to end, would reach from Chicago, where Ventas is now headquartered, back to her hometown. Among other things, *Financial Times* placed her on its list of the world's top fifty businesswomen; *Modern Healthcare* magazine named her as one of the hundred most influential people in healthcare; Forbes lauded her as one America's ten best-performing CEOs; and the organization Legal Momentum honored her with its Aiming High Award for personal leadership that has broken new ground for women in business. In 2011, the Law School designated her as a Distinguished Alumna.

"I learned many important things at the Law School," she says, "but the most important was this: It's cool to be smart. Intelligence and education weren't overly valued when I grew up, and, to be honest, brains and ambition weren't always the most highly prized qualities in a girl or a woman back then. It was so powerful for me—transformational, really—to be at a place that was electric with the joy and challenge of learning and ideas, not just in the classroom but everywhere."

Her commitment to giving back to the Law School has taken many forms, including membership on the Visiting Committee, chairmanship of the Annual Fund, service on many reunion committees, and participation on the Dean's Business Advisory Council.

"I owe so much to the Law School, to my parents, and to the great mentors I have had throughout my career," she says. "My husband, Terry Livingston, has always given me amazing support, and nothing in our lives would have meant nearly as much without our two wonderful children, Kevin and Katie. It's good to be brave, and it's cool to be smart, and it's also very, very good to love and be loved."

## Greenbaums Endow Visiting Professorship for Israeli Scholars

David R. Greenbaum, '76, and his wife Laureine have endowed the David and Laureine Greenbaum Distinguished Visiting Professorship, which will enable a legal scholar from Israel to visit the Law School for at least a quarter each year, teaching classes and interacting with the Law



*Laureine and David Greenbaum*

School's faculty and students, as well as lecturing in the College of the University of Chicago and being available to the university community as a whole for both intellectual and cultural exchange.

The gift reflects the Greenbaums' commitment to Israel and its ideals, it connects strongly to Mr.

Greenbaum's family history, and it bespeaks his appreciation for the opportunities that his education at the Law School provided for him.

The Greenbaums are active leaders at the national and local levels of the Jewish National Fund, a 111-year-old organization that is today a global environmental leader, having planted more than 250 million trees and created more than 1,000 parks within Israel and having undertaken water reclamation projects that account for a 12 percent increase in Israel's water supply. For their extensive service to the JNF, the Greenbaums were honored with the organization's prestigious Tree of Life award in 2011. Previous recipients of the award include Colin Powell and Al Gore.

Mr. Greenbaum's parents escaped from Nazi Germany during the Second World War. "I'm a first-generation American," he says, "and I never take for granted the political, economic, and religious freedoms we enjoy here. I'm also proud of all that Israel has accomplished, as what is currently the only true democracy in the Middle East and as one of the world's most dynamic and entrepreneurial economies. I'm glad that this professorship will provide an opportunity for University of Chicago students and others to learn more about Israel and its successful rule of law and for each year's Israeli visitor to perhaps return home with a bit of the University of Chicago magic."

A president of the New York Division of Vornado Realty Trust, Mr. Greenbaum oversees a 28-million-square-foot portfolio of office, retail, and residential assets, some \$15-plus billion dollars in real estate investments. He says

his mother's experience influenced his career path: "My mother's home in Heidelberg was appropriated during the war, and she came to the United States with practically nothing. After the war, when her childhood home in Germany was returned to her, I still remember her saying to me that you can lose a lot in life, but somehow they cannot take real estate from you."

At the Law School, Mr. Greenbaum was powerfully influenced by Professor Walter Blum, whose specialty was taxation. "Walter Blum was my hero—an unbelievably great teacher who was a master of the Socratic method," he says. "He became my mentor at the Law School. I took every course he offered. He brought out the best in me and inspired me to become a tax lawyer."

After law school, Mr. Greenbaum joined Weil Gotshal & Manges as a tax lawyer, specializing in real estate issues. A real estate boom was newly underway, and Greenbaum worked with many of the young men—including Donald Trump, Richard Fisher, Larry Silverstein, and Bernard Mendik—who would come to shape New York's skyline. In 1982 he joined Mendik's real estate business, eventually becoming its president, and he led the process by which that firm was merged into Vornado in 1997.

In 2010, Mr. Greenbaum's corporate and civic leadership was recognized with the New York Real Estate Board's Mendik Lifetime Achievement Award. Among his civic contributions, he is a member of the Citizens' Budget Commission, which advises the governments of New York City and New York State on fiscal matters, and he is a director of several public-private partnerships that aim to insure the current and future vitality of New York City, including the Times Square Alliance, the Grand Central Partnership, and the Penn Plaza Business Improvement District.

Mr. Greenbaum says the gift he and his wife have given to the Law School is just one way of repaying the debt he feels. "The intellectual life of the Law School startled me when I first arrived there," he recalls. "I remember being in class with a brand-new professor named Richard Epstein, and then leaving the class with no idea what he had been saying—but knowing that it was important and I had better figure it out. I always say that in one sense the Law School didn't teach me anything, and at the same time it taught me everything that matters—how to evaluate problems, how to think systematically, and how to express myself orally and in writing, to name just a few. The Law School has been instrumental in everything I have accomplished, and I am very pleased to join with my wife in making this gift."



## Sandors Invest in the Future, Honor the Past with Law and Economics Gift

Richard Sandor, PhD, and his wife, Ellen, are the principal donors to a \$10 million endowment that will expand the law and economics program at the Law School. Their gift is made in honor of Dr. Sandor's mentor, Professor Ronald Coase.

Together and in their separate disciplines, the Sandors have been inventing the future for almost 50 years. Dr. Sandor,



Ellen and Richard Sandor

who serves at the Law School as a Lecturer in Law, has been recognized as the founder of two world-changing disciplines—and he may well be headed toward a third such distinction. For creating the first tradable contracts in financial instruments, at the Chicago Board of Trade in the early 1970s, he is widely acknowledged as “the father of financial futures.” In 2007, *Time* magazine, calling him a “hero of the environment,” recognized him as “the father of carbon trading” for work he began in the late 1980s.

Sandor, who is the founder and CEO of Environmental Financial Products, which invents and develops new financial markets, sees potential uses for markets in new pressing areas. “Water is the commodity of the 21st century, more important than anything else,” he says, “and there’s a role for markets in water, just as there is a role for markets in medicine, in education, and for most of our most pressing problems. I’m more excited about the next 20 years in the environmental and social arena than I was about financial futures.”

While he was teaching at Berkeley in the 1960s, Sandor conceived of a commodities exchange that would use computers for its transactions, instead of humans directly buying and selling among each other on an exchange floor. Returning home after a trip to Chicago to observe the operation of the Board of Trade, he told his wife how much he liked the city. “Ellen looked at me and said, ‘One day, we’re going to live in Chicago,’” he recounts. “She was a prophet about that, as she has been about so many things.” (Although his idea was ahead of its time, it is one of his proudest accomplishments. He tells the story, along with many other chapters from his life, in his 2012 book, *Good Derivatives*.)

After the couple arrived in Chicago to live, Mrs. Sandor followed a lifelong passion of hers by studying at and receiving an MFA from the School of the Art Institute of Chicago. She quickly perceived a future for art converging with new media and became one of the first in the field to pioneer virtual photography. Her subsequent collaborations with organizations that include the National Center for Supercomputing Applications (where she is currently an affiliate of eDream) and the NASA Ames Research Center have resulted in art that is engrossing in itself and has also aided scientific research.

She founded art(n) Laboratory in 1983 and coined the term PHSCologram to denote the integration of photography, holography, sculpture, and computer graphics in the works she and her colleagues were creating. She holds several patents for innovative art methodologies; her work has been discussed in countless articles and books; and works by her are in the permanent collections of many museums, including the Art Institute of Chicago, the International Center of Photography, and the Smithsonian Institution. She is a Life Trustee of the Art Institute and she chairs the advisory board of the Gene Siskel Film Center of the School of the Art Institute of Chicago.

The Sandors have collected photography and outsider art together since the 1970s. Mrs. Sandor recalls, “When I knew I would be working on expanding the future of photography, I suggested to Richard—who in addition to his other attributes is a brilliant historian—that he might concentrate on the best of photography’s past.” The Sandor Family Collection has been named as one of America’s top 100 private art collections.

Richard Sandor says that the couple’s gift to the Law School comes at an important milestone in their lives that serves as an apt metaphor: “This year we will celebrate our 50th wedding anniversary. We’re savoring our past together and very much looking forward to what the future will bring. And as we honor Professor Coase’s magnificent achievements, which have inspired and guided me throughout my career, we know that the discipline of law and economics is the best pathway forward for defeating the problems of the 21st century and beyond.”

In recognition of the Sandors’ gift, the Institute for Law and Economics will become known as the Sandor-Coase Institute for Law and Economics. Mrs. Sandor observes, “To be able to honor my husband’s mentor in this way touches me deeply. To have their names linked in this important way is gratifying beyond words.”

# Alumni

## In Memoriam

### 1939

#### **Paul M. Barnes**

*December 29, 2012*

Barnes, a World War II veteran and former partner of Foley & Lardner in Milwaukee, died in Elk Grove, Illinois, at the age of 98. Barnes joined Foley in 1940 and enlisted in the US Navy the day after Pearl Harbor was attacked in December 1941. He served as an officer aboard a battleship in the Pacific through the end of World War II. He became Foley's 11th partner in 1949 and retired in 1985, after 45 years of service. He was an avid golfer who enjoyed traveling, the outdoors, and horseback riding.

### 1947

#### **Gertrude A. Hoffman**

*December 7, 2012*

Hoffman, a graduate of both the College and the Law School, died at age 91 in San Diego, California. Hoffman moved to San Diego in the 1970s to serve as executive counsel to Joan Kroc, a philanthropist and the wife of McDonald's CEO Ray Kroc. After she retired, she traveled extensively and volunteered for San Diego Hospice for 20 years.

### 1948

#### **Robert L. Kealy**

*November 26, 2012*

Kealy, a World War II veteran who spent many years in the Army Reserves legal services, died in Wisconsin at age 96. In his early legal career, he worked for the US Department of Agriculture in Chicago and Milwaukee. He later pursued a PhD in philosophy and comparative literature at the University of Wisconsin–Madison. He met his late wife, Mollie Eldred Abbott, also '48, at the Law School.

#### **Harold J. Spelman**

*March 5, 2012*

Spelman, a prominent retired attorney in West Chicago, died in his home at age 88. He was a graduate of both the College and the Law School and a permanent deacon in the Episcopal Church. Spelman was also a 32nd Degree Mason–Scottish Rite, Amity Lodge member, and a licensed ship pilot. He retired in 1999.

### 1951

#### **Joseph H. Callender**

*October 9, 2012*

Callender died in New Rochelle, New York, where he practiced law for more than 40 years, including 25 years as an arbitrator in the New Rochelle City Court. He was 90. The World War II Army veteran served in the European theater. Upon his return, he earned degrees from Clark University and the Law School. He was a charter member of the Westchester Black Bar Association and a member of the American Bar Association. He also served as a legal consultant for Saint Simon's Episcopal Church.

#### **Michael Conant**

*December 7, 2012*

Conant, an economics and law professor, died in Kensington, California, at age 88. After serving in the US Army during World War II, Conant attended the University of Illinois at Urbana-Champaign, where he earned a degree in economics. From there he attended the University of Chicago, where he earned a PhD in economics and a law degree. He continued on to the law degree at the suggestion of his girlfriend,

Helene Mandel, who would later become his wife of 62 years. In 1954, Dr. Conant joined the faculty of the University of California, Berkeley, as part of the Haas School of Business. Though he retired in 1991, Professor Conant continued to publish, including *The Constitution and Economic Regulation: Objective Theory and Critical Commentary* (2008).

#### **Thomas J. Janczy**

*October 19, 2012*

Janczy, a retired Cook County Circuit Court judge, died in North Riverside, Illinois. Janczy, who was 91 at the time of his death, was a fighter pilot during World War II and attended Wright Junior College on the GI Bill. At the Law School, he was on *Law Review* with Robert Bork, '53, and Abner Mikva, '51, who became fellow judges and lifelong friends. Janczy also served as an assistant state's attorney.



**Dan R. Roin**

*February 18, 2013*

A graduate of both the Law School and the College, Roin passed away in Chicago at the age of 85. A life-long Chicagoan, he enjoyed a diverse practice covering real estate development, probate, commercial litigation, and commodities issues for almost 50 years. He was the beloved husband of the late Maureen Roin, and the proud father of three attorneys, Howard Roin, '78, Julie Roin (who, along with her husband Saul Levmore, atoned for their sin of attending Yale Law School by becoming professors and, in Saul's case, Dean at the Law School), and Kathleen Roin (also YLS). His love of the law transferred to the third generation: his grandson, Benjamin Roin, is a professor at Harvard Law School, and his granddaughter, Katharine Roin, '10, is currently practicing law in Chicago. He is also survived by three other grandchildren, Andrew Roin, Nathaniel Levmore, and Eliot Levmore, none of whom are lawyers—yet.

**1953****Robert H. Bork**

*December 19, 2012*

Bork, former federal judge, law professor, and Solicitor General of the United States, died in Arlington, Virginia, at age 85. Bork graduated from the College in 1948 and served in the military before he returned to Chicago to finish his law degree. He was an editor on the *Law Review* and graduated Phi Beta Kappa and as a member of Order of the Coif. Bork started his career in private practice and went on to an academic career at Yale Law School, where he published groundbreaking scholarship on the application of economics to antitrust law. He served as Solicitor General from 1973 to 1977 and served as a judge on the US Court of Appeals for the District of Columbia Circuit from 1982 to 1988. Bork spent time at the Law School later in his career as a visiting faculty member and as a member of the Visiting Committee.

**1954****Hubert Thurschwell**

*August 20, 2012*

Thurschwell, a retired labor lawyer, died in Philadelphia, Pennsylvania, at age 81. A Korean War veteran, he practiced law in New York before becoming a labor lawyer with Bell Telephone in Philadelphia. He retired as assistant vice president. Following his retirement, he consulted for Bell and volunteered for the Montgomery County Legal Aid Society.

**1955****Jorge E. Illueca**

*May 3, 2012*

Illueca, a Panamanian politician and diplomat who served as his country's president and as president of the 38th session of the United Nations General Assembly, died in Panama at age 93. Illueca also earned degrees from the University of Panama and Harvard University. He served as a University of Panama professor before beginning his diplomatic career, which included work as Panama's representative to the United Nations and ambassador to the United States. In 1982, he was elected vice president in his country and served as president for a few months in

1984 when his predecessor resigned. After his presidency, he continued to work in diplomacy.

**Robert B. Murdock**

*October 19, 2012*

Murdock, who was also a graduate of the College, died in Washington, DC, at age 80. Prior to his retirement in 1994, Murdock was Vice President, Legal Services of the Potomac Edison Company, having served with PEC and Allegheny Power affiliates for 33 years. He was also the founding chairman of the Hagerstown (Maryland) Commercial and Industrial Commission, the city's first economic development endeavor.

**1957****Jack Alex**

*July 21, 2012*

Alex, who made his career as a defense attorney, district attorney, and judge in Los Angeles County, died in Los Angeles at age 83. He earned his undergraduate degree at Colby College before coming to the Law School. Alex also ran for Congress in 1964.

### 1959

#### John W. Gosselin

*September 1, 2012*

Gosselin, a former city attorney, died in Batavia, Illinois, at age 78. He worked as city counsel for Aurora, Illinois, after his graduation from the Law School, and later was the city attorney of Batavia for many years. He also worked in the Batavia law firm of Benson, Mair & Gosselin. Gosselin was a member of the Illinois Bar Association, the Kane County Bar Association, and the Batavia Moose Lodge.

### 1960

#### William P. Doherty, Jr.

*September 28, 2012*

Doherty, a resident of Bridgeton, New Jersey, died at age 77. After establishing his own law practice, Doherty became one of New Jersey's longest-serving prosecutors, starting in 1973, and was elected an arbitrator for the US federal courts. A former president of the Cumberland County Bar Association, Doherty was a member of the Supreme Court of the State of New Jersey Judicial Conference and the Cumberland County ethics committee. He was interested in photography as well as classical and Irish music.

### 1962

#### Louis L. Selby

*September 1, 2012*

Selby, a Navy veteran and recipient of the Purple Heart, died at age 86 in California. He worked as an attorney for more than 45 years, the last 10 of which for the city of Anaheim. He was a 29-year resident of Norco, California, and was an active member of Crossroads Christian Church in nearby Corona. He enjoyed traveling, camping, and fishing.

#### Raymond I. Skilling

*October 10, 2012*

Skilling, a resident of Chicago, died during a trip to London, England. He was 73. As a partner in the London law firm Clifford-Turner, Skilling handled the legal affairs of some members of the Beatles and famous figures in the classical music world. In Chicago, he opened a branch of Clifford-Turner in 1974 and then was chief counsel of Aon Corporation for more than

20 years. In 2006, he was awarded the Order of the British Empire for his work to improve UK and American business relations. He was born in Northern Ireland and spent part of his childhood in Belfast. He came to the Law School as a Fulbright Scholar.

### 1963

#### Charles P. Carlson

*October 2, 2012*

Carlson, who with wife Rita helped to develop the National Association of Bond Lawyers, died in Hinsdale, Illinois, at age 76. He also founded the law firm of Carlson & Hug and the legal publication *Bond Case Briefs*. He was a graduate of both the College and the Law School.

#### Robert G. Weber

*October 3, 2012*

Weber, a tax lawyer, died in Minneapolis, Minnesota, at age 75. He was a partner at Fredrikson & Byron, where he started working in 1963. He was recognized as an expert in the specialized areas of estate and gift tax planning, as well as probate and trust matters, and served as a lecturer, educator, and mentor to the next generation of lawyers. He enjoyed classic animation, mystery novels, and a variety of music.

### 1966

#### Mary Lee Leahy

*December 12, 2012*

Leahy, a trial lawyer, died in Athens, Illinois, at age 72. Leahy earned degrees from Loyola University and the University of Manchester in England as a Fulbright Scholar before coming to the Law School. Leahy served as director of the Department of Children and Family Services during Governor Dan Walker's administration in the mid-1970s and on the board of the Better Government Association. She delivered the winning argument before the US Supreme Court in the landmark *Rutan vs. Republican Party of Illinois* case. The court's 1990 decision banned patronage hiring for rank-and-file government jobs. Leahy ran Leahy Law Offices until one year before her death. She had a love of travel, especially to China, Greece, and Central America.



## 1969

### Lee F. Benton

*August 24, 2012*

Benton died in Palo Alto, California, at age 68. Benton was senior counsel and retired partner in the Palo Alto office of Cooley, LLP, an office he founded in 1980 after joining the firm in 1970. He practiced business law with Cooley for 40 years and was Managing Partner from 1996 to 2001. He played a significant role in establishing Cooley as one of Silicon Valley's most prominent law firms, and he specialized in securities law, venture capital, mergers and acquisitions, and strategic partnering. While at the Law School, he served as Executive Editor of the *Law Review* and he graduated Order of the Coif. He was a teaching fellow at Stanford Law School. His hobbies included commercial aviation, classical and country music, and volunteer work. He was Treasurer of the National Headache Foundation.

### Michael J. Tichon

*May 13, 2012*

Tichon, a healthcare lawyer, died in La Cañada Flintridge, California, at age 69. Born in Connecticut, Tichon served as executive vice president of Healthsmart Corporation and most recently as general counsel for Pacific Hospital of Long Beach. He was past president of the National Health Lawyers Association.

## 1970

### John B. Truskowski

*June 22, 2012*

Truskowski, a tax lawyer at Lord Locke LLP, died in Grafton, Wisconsin, at age 66. His specialties were taxation, estate planning, and corporate law. He previously lived in Lake Forest, Wisconsin. Truskowski earned an undergraduate degree from the University of Illinois–Chicago before attending the Law School.

## 1977

### Steven L. Hock

*September 16, 2012*

Hock, who was most recently chief review judge for the Washington State Employment Security Department, Commissioner's Review Office, died in Olympia, Washington. He was 59. From 1977 to 2003, he worked at Thelen, Marrin, Johnson & Bridges LLP in San Francisco, where he rose to managing partner. He then worked as a consultant and a public speaker in Missoula, Montana, where he also cofounded and served as operations manager for Petit, Hock & Strauch PLLP. His hobbies included debate, reading, and fly fishing.

## 1979

### Wayne R. Luepker

*July 1, 2012*

Luepker, who was 63 and lived in Oak Park, Illinois, was a former partner at Mayer Brown who spent more than three decades in the compensation and benefits area; his specialties included executive compensation and executive employment matters. Luepker, who was named partner in 1986, was known for his mentoring

abilities. He was recognized for his professional achievements by the American Bar Association, for which he chaired the Executive Compensation Subcommittee (Section of Taxation Employee Benefits Committee) from 1999 to 2009. He also was a faculty member at the Practising Law Institute.

## 1982

### Teresa E. Raizen

*December 13, 2012*

Raizen, a development professional, died in Cambridge, Massachusetts, at age 57. A graduate of St. John's College and the Law School, Raizen worked for many years as the director of development at the Waldorf High School of Massachusetts Bay. She enjoyed knitting, traveling, reading, and writing.

**Class Notes Section – REDACTED**  
*for issues of privacy*



# The Value of Legal Education in Growing a Family Business

During the first year that Rick Woldenberg, '86, was at the Law School, his mother started a small business manufacturing educational materials for elementary school children. He didn't pay much attention because, as he recounts, "I had left another of our family's businesses the year before and I was totally focused on becoming a lawyer."

Today, he is chairman and CEO of the business his mother started, Learning Resources. The company and its subsidiaries design, manufacture, and sell more than 1,200 hands-on learning products for children and their parents and teachers, selling products in 80 countries. Together with the rest of the family group of companies, they employ more than 300 people.



*Rick Woldenberg, '86*

He joined the company in 1990 after four years as an associate at a large Chicago law firm. "I loved my job, but I had billed almost 2,700 hours in 1989 and it was just too much. My wife and I had a toddler at home and a baby on the way. I needed better work-life balance, but wasn't confident I could achieve it as a big-firm lawyer. I had always been interested in business and thought I could apply my legal skills more directly to business challenges." He looked around, but his attention kept swinging back to Learning Resources. "The company was growing fast and needed help. I became its 15th employee. I was excited to bring my professional skills to our family business."

He's proud of Learning Resources and what it does. "We play an important role in our community. We provide good jobs; we pay taxes; we trade with local businesses. And our products help children all over the world to learn and grow, which means we play a role in breaking the cycle of poverty," he says. "It is very gratifying to feel your efforts make the world a better place."

Among the company's many honors, it recently received the inaugural Corporate Leadership Award bestowed by the Children's Museum of Manhattan. Woldenberg currently serves on the board

of advisors of Northwestern University's School of Education and Social Policy.

A business career can be rewarding for many lawyers, particularly Chicago-trained lawyers, Woldenberg suggests. "I use the analytical skills I developed at the Law School every day on the job," he says, "not to mention the practical knowledge I developed as a lawyer about taxation, human resources, licensing, mergers and acquisitions, and so on. My University of Chicago Law School education has proved to be an invaluable asset in our business. It gives us an edge, especially in a business so dependent on intellectual property." He notes that his brother Jim, a 1990 graduate of the Law School, also made the transition to the business world, focusing on the laboratory supply market for the family business.

Woldenberg found himself applying the full range of his skills between 2008 and 2011, when he became a central figure in protesting the implementation of the new Consumer Product Safety Improvement Act. In his view, the Act was excessive and harmful to small businesses, and he became a focal point for efforts to modify the Act and delay its implementation to allow for further consideration. His blog became widely read, his views were cited in many publications, and he appeared on *60 Minutes*. "We have always been deeply committed to safety, and worked diligently—and effectively—to protect consumers under the prior law. We don't oppose measures that improve safety, but this law was overreaching of the worst kind," he says.

As he faces his daily challenges in business, Woldenberg says he often thinks of Walter Blum, his favorite Law School professor: "Wally Blum was the ultimate rational thinker. As I do my job and lead our companies, I aspire to measure up to his wonderful example. I try to reason with facts, see the larger picture, and stand up for what I believe in. Wally demanded insight at all times and asked great questions. He left his mark on me as a teacher. I try to repay this debt by serving our stakeholders with integrity every day. That's just one more example of how strong the Law School's influence on me has been and how enduring it is."

# Innovator of Securities, Financial Products Also Mentors High School Youth

Having decided that she wanted a career in the diplomatic corps, Anna Pinedo, '93, went to the college that might best prepare her for that, Georgetown's School of Foreign Service, where she graduated in just three years.

It turned out, however, that she was destined to change the world in a different way. "I realized at Georgetown that I was not cut out to work in the foreign service," she recalls. "I'm a chronically impatient person. I wanted a less hierarchical setting." Since graduating from the Law School, she has been at the center of some of the most innovative securities transactions and structured new financial products, earning a lengthy list of awards and recognition.



Anna Pinedo, '93

In addition, she has written five books and a mountain of articles, book chapters, and other publications. Her most recent books are the 2012 *Considerations for Foreign Banks Financing in the US* and, from 2011, *Liability Management: An Overview*. She frequently leads workshops and seminars and participates extensively in ABA committees and subcommittees.

She began her career at Stroock & Stroock & Lavan where, at 29, she became the youngest partner in the firm's history. In 2003, she and some colleagues relocated to Morrison & Foerster, where she now practices. At Morrison & Foerster, she continues to work with some of the country's largest investment banks, representing them in securities offerings and working closely with them on product development. She also has been counseling many clients on regulatory matters arising from the Dodd-Frank Act, including new derivatives regulations.

Her clients include Bank of America Merrill, Barclays, Citigroup, HSBC, Nomura, and Royal Bank of Canada, and among her many honors she has been named as a leading international capital markets and derivatives lawyer by *Chambers USA* and *Chambers Global* in each of the last six years. Born in the US to Cuban émigrés, she has been named as one of the top 100 worldwide Hispanic leaders by *Hispanic Business* magazine.

Committed to her community and society, she makes time to volunteer for causes she values. She's a winner of the Women of Power and Influence Award from the National Organization for Women. She lights up when talking about her work with students at Cristo Rey High School in Harlem, a college-preparatory school for minority students. Every student at Cristo Rey works full-time one day a week with a private company or nonprofit; their wages go toward their tuition at the private school. Five of them work at Morrison & Foerster. "It's a wonderful program that provides a great education and also the benefit of seeing work settings that they wouldn't otherwise be familiar with, so they are better prepared for college and for life," she says.

The Law School, she says, provided her with "a phenomenal grounding in legal concepts, and a wonderfully stimulating, rigorous intellectual experience." She names Douglas Baird, Randy Picker, Walter Blum, and Richard Helms as some of the professors whose classes were particularly memorable. "There's a movement these days, even at some of the better law schools, to become more vocational," she observes, "and I am very glad that Chicago is so committed to retaining its tradition of challenging inquiry and great discussions. The Socratic Method shaped my learning and still deeply affects my thinking today. Much of what I have accomplished is attributable to the great education I received."



# Government Privacy Practitioner Returns to Private Practice

Last year, after three and a half years as Chief Privacy Officer of the United States Department of Homeland Security, Mary Ellen Callahan, '97, founded the Privacy and Information Governance Practice at Jenner & Block.

She began developing her expertise in privacy law and policy early in her legal career. When she joined Hogan & Hartson (now Hogan Lovells) after graduation, the internet was just becoming a substantial



*Mary Ellen Callahan, '97*

conduit for commercial transactions (it was first used for such transactions in 1995). Recognizing that a new field of legal practice was opening up, related to online privacy and information management, she focused her activities in that area, taking on assignments that included leading audits of clients' privacy and security policies and helping industry organizations define self-regulatory practices for the collection and dissemination of online information. She served as counsel to and cochair of the Online Privacy Alliance, a cross-industry coalition of more than 80 global companies and associations committed to promoting the privacy of individuals online.

Not long after the 2008 victory of President Obama—whose seminar she had taken at the Law School and whose campaign she had advised on privacy and technology issues—Callahan was selected to head the first statutorily mandated privacy office in the federal government, at the Department of Homeland Security. Completing more than 200 privacy impact assessments of DHS programs, she also had a voice in major decisions that included the monitoring of social media, the use of full-body scanners in airports, the sharing of airline passenger records between the United States and the European Union, and the establishment of privacy policies at the 71 “fusion centers” where intelligence information is shared among a multitude of federal, state, and local agencies.

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# Internet Entrepreneur's Company Supercharges Websites

"We're building a better version of the internet," Matthew Prince, '00, says about CloudFlare, the company he cofounded and leads as CEO.

Since CloudFlare's 2010 launch, more than a million users around the world, from individual bloggers to major universities, giant companies, and national governments, have signed up for its services.



*Matthew Prince, '00*

Access to those users' websites is routed through CloudFlare's global network of data centers, and CloudFlare's technology makes those websites run much faster (twice as fast, on average, as conventional internet traffic), fiercely protects them from attacks, and decreases the resources required to operate them. No hardware or software changes are necessary; the switch into CloudFlare's network normally takes less than five minutes to accomplish.

The *Wall Street Journal* named CloudFlare the most innovative network and internet technology company of 2011—and then the company earned the same honor again in 2012, marking the only time any company has won it twice. Prince has also now twice attended the World Economic Forum as one of its 25 honored technology pioneers.

In 2012, CloudFlare served 679,237,127,874 page views and thwarted 281,701,624,076 threats. Approximately 1.3 billion internet users passed through the company's network—well over half of the internet's total user population.

CloudFlare's big numbers contrast dramatically with the number of full days Prince has worked as a paid attorney since he graduated from the Law School: none. After graduation, he got sidetracked away from the law firm job he had accepted into a high-tech startup with the brother of a Law School professor. He remained with that company until it was sold, then taught at a law school, and then started a new company, Unspam, from which he took a sabbatical from 2007 to 2009 to attend Harvard Business School. He started CloudFlare in 2009 as a business school project with a classmate and one of the early members of Unspam's engineering team.

Noting that his nontraditional career path is not as unusual as it might seem for a graduate of the Law School, Prince recalls a recent get-together with four classmates, none of whom was working as a lawyer—one is a top aide to a state governor, one is a development officer, one works in a nonattorney capacity at the White House, and the other teaches high school. "I had the good fortune to attend a great college and a top business school," Prince says, "but I can't imagine that there's anything like a Chicago Law School education to prepare you to do practically anything you choose. You're going to come away with an incredible set of critical reasoning skills that are useful anywhere."

"It's also very valuable for any entrepreneur to know the law, for two reasons," he adds. "One is obvious—the law is important at virtually every growth stage—but the other is less obvious and just as useful: it's very important to be unafraid of the law, to know what threats and potential legal challenges are baseless and shouldn't cause you to change what you are doing or planning to do."

He mentions that Unspam, which created the email equivalent of telephone do-not-call lists, was the target of a lawsuit from a pornography industry group alleging that blocking its spam emails constituted a First Amendment violation. "I knew that we were in the right on that one, and I was confident that Geof Stone and Cass Sunstein would stand right beside me in saying so," he recalls.

CloudFlare is much in the news these days, not only for its business and technological accomplishments but because of its role in protecting speech rights and other important national interests. When the Wikileaks website was attacked and brought down by hackers, it turned to CloudFlare to protect it. When government hackers targeted the websites of some dissident African journalists, CloudFlare worked with the Committee to Protect Journalists to keep the sites online. When Syria's government sabotaged the internet, CloudFlare's experts were able to detect how that had been done and inform the world. And when Israel and Hamas were engaged in armed conflict, each side was also launching cyberattacks against the other; when they both became CloudFlare customers, the attacks were thwarted.

"The better internet we're building is not only faster and less costly, it's also safer and more open for the free expression of ideas," Prince observes. "And that's all pretty thrilling."



# A New Firm, a New Model: Results, not Just Hours

Earlier this year, Suyash Agrawal, '02, joined with a partner to open Agrawal Evans LLP, a new boutique law firm in Chicago that represents plaintiffs and defendants in complex business disputes. Apart from the firm's high-end, trial-oriented representation of clients on both sides of the docket, the firm employs an unusual business model that focuses on nonhourly fee arrangements where the firm's fees depend on its success.



*Suyash Agrawal, '02*

Agrawal honed his lawyering skills with a Fifth Circuit clerkship and nine years at the boutique business litigation firm Susman Godfrey (where he was named an equity partner in 2008). He has recovered over \$200 million for plaintiffs and successfully defended claims

seeking over \$400 million. A brief he cowrote is presented as a model in a textbook by legal writing expert Bryan Garner, who says about that brief, "It's perfect."

Agrawal began practicing in Susman Godfrey's Houston office but moved to its then-fledgling New York office right after becoming a partner. Relocating to Chicago to start his new venture made sense for several reasons: he grew up in the Chicago suburbs, he loves the city, and his wife, Monika Nalepa, is a political science professor at nearby Notre Dame University.

Agrawal credits the Law School for helping him win his wife's heart. The two met in Houston, where Nalepa was a professor at Rice University. On their first date, she was struggling to settle into conversation after a stressful day of teaching game theory to resistant graduate students. "I asked her whether she taught Arrow's Impossibility Theorem, and her eyes lit up," Agrawal recalls. "She was amazed that a lawyer would know who Kenneth Arrow was. Other couples might say 'You had me at hello,' but for us it's 'You had me at Arrow's theorem.' I doubt that any other top law school can say that!"

He also attributes many of his professional accomplishments to the Law School. For example, he notes that the Law School taught him

to think systematically and rigorously about how incentives define problems and their solutions: "That kind of training helps you differentiate what's salient from the noise. And it began in my first year, in courses such as Contracts with Lisa Bernstein and Elements of Law with David Strauss. It shapes how I approach all areas of my practice, from writing briefs to negotiating settlements to framing cases in an argument before a judge or jury."

His new firm's distinctive approach to remuneration reflects that same principle, Agrawal says: "Our fees will be determined, partially or completely, by the outcomes we produce, not just by how many hours we log. So, we're incentivized to perform at the highest level, but to do so efficiently, focusing on what will ultimately matter to the fact finder." He says that many lawyers might occasionally employ such alternative fee agreements, but few business litigation firms thoroughly embrace them, a situation he describes as "astonishing, because lawyers are in the business of dispensing advice in the face of uncertainty, and that advice squarely affects their clients' pocketbooks." Not only has Agrawal practiced under such nonhourly agreements throughout his career, but he's also written about them in an article for an ABA publication. He is currently working with other graduates of the Law School and the University of Chicago and to assemble a continuing legal education workshop on structuring, negotiating, and drafting alternative fee arrangements.

A committed supporter of the Law School, Agrawal has cochaired his class's 10th reunion, helped plan alumni events in New York City, and served as a Moot Court judge. He says that the Law School's alumni network has been an exceptional resource as he begins this new stage of his career: "I've received helpful input about everything from our logo to building the business from alumni whom I know. Just as striking is how many people I didn't know—whom I've met at various alumni gatherings, for example—are more than ready and willing to offer valuable advice and help in any way they can."

"For an institution that so effectively nurtures independent thinking, the Law School has also been remarkable at building a tight-knit community among its alumni, faculty, and friends," Agrawal adds. "I'm thrilled to have the chance to contribute to that, and deeply grateful to have benefitted so much from it."

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# HEARD IN CLASS

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NO MATTER WHICH WAY THE  
LIABILITY RUNS, NO ONE LIKES  
TO DIE.

— Richard Epstein

YEAH; I CAN'T REALLY SAY THAT I'M FAMILIAR  
WITH THE SECURED TRANSACTION PATTERNS  
OF THE AMISH.

— Randy Picker

UNIVERSAL ASEXUAL REPRODUCTION  
WOULD BE RISKY.

— Richard Posner

YOU DON'T KNOW THE NAME OF YOUR HIGH  
SCHOOL MASCOT?! YOU WERE MADE FOR THE  
UNIVERSITY OF CHICAGO LAW SCHOOL! GO  
AHEAD, TELL US HOW TO TAKE A SQUARE ROOT  
MANUALLY. I LOVE YOU — THAT'S WONDERFUL!

— Saul Levmore

I CALLED ON YOU BECAUSE THE  
ANSWER IS “WHO THE HELL KNOWS?”  
AND YOU SEEMED TO BE IN THAT  
KIND OF MODE.

— Lisa Bernstein

IT IS ONE OF THE SAD TRUTHS OF THE LEGAL  
PROFESSION THAT HALF OF ALL LAWYERS  
ARE WORSE THAN AVERAGE. THERE'S JUST  
NOTHING YOU CAN DO ABOUT THAT.

— Frank Easterbrook

IF SOMEONE TELLS YOU THAT THEY  
HAVE A HOT STOCK TIP, YOU SHOULD  
LAUGH AT THEM. IT'S LIKE SAYING  
YOU SAW A UNICORN.

— Todd Henderson

*Diane Wood:* AND WHY COULDN'T THE CASE  
GO FORWARD?

*Student:* I GUESS IT WAS JUST A PROCEDURAL  
PROBLEM...

*Wood:* WAIT, JUST A PROCEDURAL PROBLEM?  
HOW COULD YOU SAY THAT, AFTER ALL  
WE'VE BEEN THROUGH TOGETHER?

*Student:* AS SUPERMAN SAID, FLYING  
STILL IS THE SAFEST WAY TO TRAVEL.

*Eric Posner:* WELL, FOR HIM.

I HAVE DISTRIBUTED TO YOU A CHART THAT  
IS SO COMPLICATED THAT EACH TIME I LOOK  
AT IT I CAN'T FIGURE OUT WHAT I WAS  
DOING, BUT THEN EACH TIME I LOOK AT IT  
MORE CLOSELY I SAY, “AHA! THAT IS REALLY  
HELPFUL.”

— Bill Landes

IF YOU CAN EAT IT, DRINK IT, OR IT  
SITS ON YOUR LAP, YOU CAN ONLY  
DEDUCT HALF.

— Joseph Isenbergh



I FEEL THAT OUR CONVERSATION  
[ABOUT EXTORTION] HAS BEEN BAD. I FEAR  
THAT YOU WILL MISCONSTRUE IT AS A SET  
OF INSTRUCTIONS. – Thomas Miles

EUTHANASIA IS NOT A LIFESTYLE.  
– Bernard Harcourt

NOT TO SINGLE OUT A COUNTRY, BUT WE  
SHOULD REALLY ASPIRE TO BE MORE LIKE  
RUSSIA. YOU NEVER KNOW WHAT THEIR  
COURTS ARE GOING TO DO; IT'S ALWAYS  
SOMETHING CRAZY. GOTTA STAY OUT OF  
THEM. GOTTA WRITE GOOD CONTRACTS.  
– Anup Malani

THERE'S ALWAYS GOOD MONEY  
TO BE MADE IN STEALING FROM  
OTHER PEOPLE. – Julie Roin

WHEN YOU DISCOVER PRIOR ART AS A  
PATENTEE'S ATTORNEY, YOU HAVE TWO  
CHOICES. GIVE THE ART TO THE PTO,  
OR BURY IT, START UP THE DOCUMENT  
SHREDDERS, AND PROBABLY GET DISBARRED.  
I RECOMMEND THE FIRST CHOICE,  
BECAUSE YOU GET PAID EITHER WAY.  
– Jonathan Masur

KETCHUP KILLS. I'M SURE  
WE CAN FIND SOME AMERICAN  
THAT DIED FROM KETCHUP.  
EVERYTHING KILLS.  
– Omri Ben-Shahar

THE SINGLE BEST SOURCE OF  
INFORMATION FOR PROSECUTORS IS  
EX-GIRLFRIENDS. – Emily Buss

NOW I WAS ALIVE WHEN *Brown* WAS HANDED  
DOWN. THOUGH BARELY – I WAS TWO. SO OF  
COURSE I GOT THE OPINION IMMEDIATELY  
AND WENT TO WORK. – David Strauss

*Rent-A-Center* IS LIKE THE  
CILANTRO OF SUPREME COURT  
OPINIONS. YOU KNOW HOW  
PEOPLE JUST LOVE CILANTRO OR  
HATE CILANTRO? – William Hubbard

PEOPLE NEVER SHARE THE SAME EMAIL  
ADDRESS, UNLESS THEY'RE A REALLY  
ANNOYING NEWLYWED COUPLE. – Lior Strahilevitz

A PUBLICLY TRADED CORPORATION  
IS SORT OF LIKE A POLYGAMOUS  
MARRIAGE. – Mary Anne Case

IN A WAY, YOUR ANSWER WAS BETTER THAN  
MINE, EXCEPT THAT MINE WAS RIGHT.  
– Richard Helmholz

SEOUL IS ONLY ABOUT 30 MILES  
FROM THE DMZ. IT'S AS IF YOU  
HAD A HOSTILE COMMUNIST  
REGIME OVER IN NAPERVILLE.  
– Tom Ginsburg





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